

CITY OF SANTA BARBARA WATERFRONT DEPARTMENT

MEMORANDUM

Date: November 15, 2012
To: Harbor Commission
From: Scott Riedman, Waterfront Director
Subject: **Amendment of Lease Agreement No. 19,694
Santa Barbara Shellfish Company**

RECOMMENDATION:

That Harbor Commission recommend approval to City Council of the amendment of Lease Agreement No. 19,694, Santa Barbara Shellfish Company, adding the City's standard financing provision to the lease to facilitate refinancing for the 1,160 square foot restaurant at 230 Stearns Wharf.

DISCUSSION:

Santa Barbara Shellfish Company, Inc., (SBSC) has leased space on Stearns Wharf since the Wharf was acquired by the City and redeveloped in the 1980's. The current lease commenced in September 1999 and expires in September 2017. The base rent is an average of \$13,762 per month, allocated seasonally, or 10% of gross sales, whichever is greater. The percentage rent escalates to 11.4% of gross sales when sales exceed \$1,250,000 in a calendar year. The base rent is subject to annual Cost of Living increases based on the Consumer Price Index. The base rent is also adjusted every three years to an amount equal to 75% of the average total rent paid (base + percentage) during the previous 36 months.

In October, Adam White, co-owner of SBSC, contacted the Department about refinancing a business loan. The amendment will allow the lender to encumber the lease as collateral, with certain limitations. For example, the Landlord must be notified in event of default on the loan and be given the opportunity to cure the default. Similarly, the Department must notify the lender of any default on the lease. In the event of foreclosure, the Landlord has the right to buy the lease back from the lender. Additionally, if the lender assigns the lease to a new operator following a foreclosure, the Landlord retains the right to approve the new operator.

The City's financing provision is consistent with other tenants including Santa Barbara Sailing Center, the Harbor Restaurant, and Chuck's Waterfront Grill.

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Santa Barbara Shellfish is considered a tenant in good standing by the Department as they have no outstanding default notices on file and have been prompt with rent payments. Annual gross sales have increased from \$842,447 in 2001 to \$2,317,843 in 2011.

No other changes to the business terms of the lease are proposed as part of this lease amendment.

Attachment: Site Plan

Prepared by: Scott Riedman, Waterfront Director