



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: October 9, 2012

TO: Mayor and Councilmembers

FROM: Waterfront Department, Business Division

SUBJECT: Introduction Of Ordinance For A Lease Agreement With Brophy & Sons, Inc.

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, an Ordinance of the Council of the City of Santa Barbara Approving a 23-Year Lease dated as of November 16, 2012, with Brophy & Sons, Inc., Doing Business As, Brophy Brothers Restaurant and Clam Bar and On The Alley, at an Average Base Rent of \$35,800 Per Month or 10% of Gross Sales, Whichever is Greater.

BACKGROUND:

In August 2010, Harbor Commission recommended that City Council approve a new 25-year lease with Brophy & Sons, Inc ("Brophys") for the second floor restaurant operation at 119 Harbor Way. On September 21, 2010, the City Council adopted an Ordinance approving the 25-year lease with Brophys.

In January 2011, Brophys assumed the Minnow Café lease located at 117-E Harbor Way through a lease assignment process. The Minnow Café lease had expired in 2008 and the business had been operating on a month-to-month "holdover" status since that time. Brophys continued to operate the Minnow Café until closing for an extensive remodel in October 2011. The business reopened in May 2012 as "On The Alley" and includes additional space formerly occupied by the Santa Barbara Fish Market at 117-F Harbor Way.

DISCUSSION:

The remodel of the former Minnow Café and Fish Market spaces triggered County Environmental Health Services (EHS) upgrades and Americans with Disabilities Act (ADA) improvements, which required substantial work in the adjacent Brophys lease space in suite "H" of the 117 building. Although Brophys and On The Alley maintain separate identities and operate from different business models, functionally the lease spaces are combined. The proposed lease combines the two restaurant spaces and

rent obligations into one lease contract, simplifying rent payments, accounting, and record keeping.

The basic terms of the proposed lease are as follows:

- **Base Rent:** \$35,800 average per month, allocated seasonally (Brophys base rent + On The Alley base rent)
- **Percentage Rent:** 10% of gross sales, escalating to 11% at \$3 million (no change)
- **Cost of Living Adjustment:** Annually, based on changes in the Consumer Price Index
- **Term:** Approximately three years remaining on the initial term with 4 five-year options for a total of 23 years
- **Personal Guarantee:** Since the lease is with a corporation, Susan Bennett signed the City's standard personal guarantee

All other business terms of the lease remain unchanged.

The Harbor Commission recommended that the City Council approve the lease agreement at their September 20, 2012, meeting.

ATTACHMENT: Lease Space

PREPARED BY: Brian Bosse, Waterfront Business Manager

APPROVED BY: City Administrator's Office

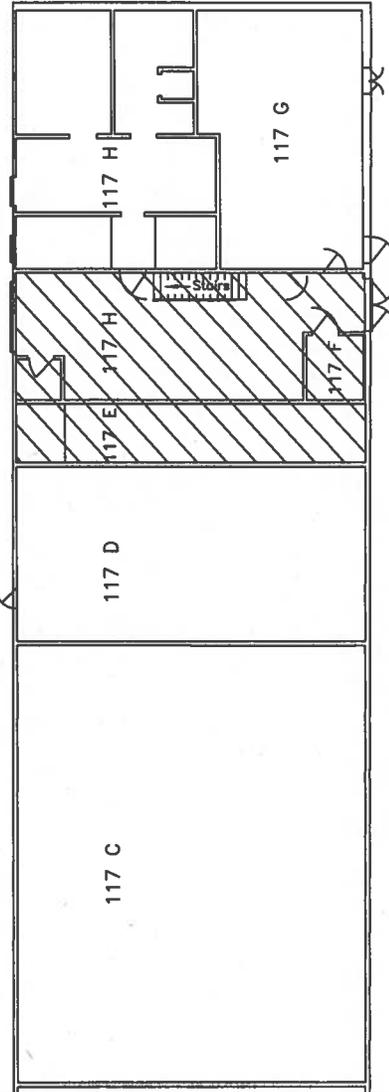
117 HARBOR WAY
 117 E 268 SQ. FT.
 117 F 48 SQ. FT.
 117 H 533 SQ. FT.
 117 TOTAL 849 SQ. FT.

119 HARBOR WAY
 119 A 2,204 SQ. FT.
 119 TOTAL 2,204 SQ. FT.

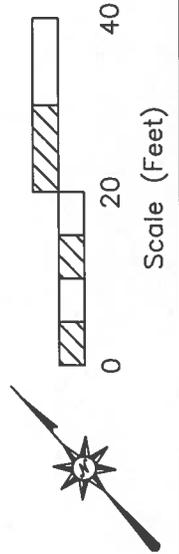
Lease Area 117 849 SQ. FT.
 Lease Area 119 2,204 SQ. FT.
TOTAL LEASE 3,153 SQ. FT.



Second Floor



First Floor



Lease Area Exhibit A

REVISIONS

DATE: 9/12/2012	APPROVED BY: B. BOSSE	DRAWN BY: T. LAWLER
ADDRESS: 117 HARBOR WAY		SHEET NO: 1 OF 1
	City of Santa Barbara	DRAWING NO: 1170-026
	Waterfront Department	