



AGENDA
CITY OF LAKE WORTH BEACH
SPECIAL CITY COMMISSION MEETING - BENNY'S ON THE BEACH
CITY HALL COMMISSION CHAMBER
WEDNESDAY, MAY 10, 2023 - 5:00 PM

ROLL CALL:

PLEDGE OF ALLEGIANCE: led by Commissioner Kimberly Stokes

UNFINISHED BUSINESS:

- A. [Consideration and decision regarding the revised Fourth Amendment to Retail Lease with RTT-Benny's on the Beach, Inc., the current tenant/assignee](#)

ADJOURNMENT:

The City Commission has adopted Rules of Decorum for Citizen Participation (See Resolution No. 81-2022). The Rules of Decorum are posted within the City Hall Chambers, City Hall Conference Room, posted online at: <https://lakeworthbeachfl.gov/government/virtual-meetings/>, and available through the City Clerk's office. Compliance with the Rules of Decorum is expected and appreciated.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

STAFF REPORT SPECIAL MEETING

AGENDA DATE: May 10, 2023

DEPARTMENT: City Attorney

TITLE:

Consideration and decision regarding the revised Fourth Amendment to Retail Lease with RTT-Benny's on the Beach, Inc., the current tenant/assignee

SUMMARY:

The City Commission will consider the Fourth Amendment to the lease which extends the lease at the Lake Worth Municipal Ocean Pier through January 11, 2033, and provides for increases in rent during the extension.

BACKGROUND AND JUSTIFICATION:

On February 11, 2013, the City entered into a Lease agreement with RTT - Benny's on the Beach, Inc., for the lease of certain space located at the Lake Worth Municipal Ocean Pier for use as a restaurant and a bait shop. The lease allowed for ten (10) years with the option of renewing initially for an additional eight years. After the initial renewal the lease allows for one additional renewal for twenty-three (23) months.

On August 5, 2015, the City and Tenant entered into the First Amendment of the Lease to address the use of additional outdoor patio area.

On May 19, 2020, the City and Tenant entered into the Second Amendment to the Lease to revise certain terms and conditions as a result of the COVID-19 pandemic.

On February 21, 2023, the City Commission approved a 90-day extension to the Third Amendment at the new lease terms (2% increase in rent) to allow for further negotiations of the proposed lease. The current lease expires on May 12, 2023.

On April 18, 2023, the City Commission considered the Fourth Amendment to the lease with Benny's on the Beach, but it was not approved.

Following the April 18, 2023 City Commission meeting, staff continued negotiation discussions with the goal of aligning the Benny's lease rent with the other beach complex restaurant rent structures as close as possible. As a result, the Fourth Amendment will extend RTT – Benny's on the Beach, Inc. lease at the Lake Worth Municipal Pier for the full nine (9) years and eleven (11) months authorized under the lease (i.e., eight (8) year "Initial Extension" option and 23 months "Second Extension" option). The amendment provides for an increase in rent as follows:

For year 1, the Tenant shall pay Rent (including the Patio Area Rent) in the amount of Twenty Thousand Nine Hundred Ten Dollars and 00/100 (\$20,910.00) per month from February 11, 2023 through May 11, 2023. For the remainder of year 1, from May 12, 2023 through February 10, 2024, the Tenant shall pay \$44.00 per square foot for the Premises, as defined in the Lease, and \$15.30 per square foot for the Patio Area Rent, as defined in the First Amendment to the Lease.

For year 2, from February 11, 2024 through February 10, 2025, the Tenant shall pay \$47.00 per square foot for the Premises and \$15.84 per square foot for the Patio Area Rent.

For year 3, from February 11, 2025 through February 10, 2026, the Tenant shall pay \$50.35 per square foot for the Premises and \$16.39 per square foot for the Patio Area Rent.

For years 4-9, plus 11 months of the Extension, the Rent for the Premises and the Patio Area shall increase by 3.5% per year beginning on February 11th of each year.

The Rent and the Patio Area Rent for the Extension are set forth in detail in **Exhibit A** which is attached. A rent proposal comparison chart is also attached.

MOTION:

Motion to approve/disapprove the Fourth Amendment to the lease with RTT - Benny's on the Beach, Inc.

ATTACHMENT(S):

Revised Fourth Amendment to Retail Lease
Exhibit A (Rent)
Fiscal Impact Analysis – N/A

FOURTH AMENDMENT TO LEASE

THIS FOURTH AMENDMENT TO THE LEASE ("Amendment" hereinafter) is made this _____ day of May, 2023, between the City of Lake Worth Beach, Florida, a municipal corporation (the "Landlord"), and RTT-Benny's on the Beach, Inc., a Florida corporation (the "Tenant").

RECITALS

WHEREAS, on February 11, 2013, the Landlord and Tenant (collectively, "Parties") entered into a Lease agreement for the lease of certain space located at the Lake Worth Municipal Ocean Pier for use by the Tenant as a restaurant with incidental retail sales and a bait shop ("Lease"); and,

WHEREAS, on August 5, 2015, the Parties entered into the First Amendment to the Lease to address and include an additional 400 square feet of space adjacent to and west of the Lease premises ("Patio Area"); and,

WHEREAS, on May 19, 2020, the Parties entered into the Second Amendment to the Lease to revise certain terms and conditions as a result of the COVID-19 pandemic; and,

WHEREAS, on April 19, 2023, the Parties entered into the Third Amendment to the Lease to extend the Lease for 90 days (February 11, 2023 through May 12, 2023) to allow for continued negotiations and to establish the Rent for such extension in the amount of Twenty Thousand Nine Hundred Ten dollars and 00/100 (\$20,910.00) which included a two percent (2%) increase; and

WHEREAS, the Parties desire to amend the Lease to extend the Lease for the full nine (9) years and eleven (11) month term (includes Initial and Second Extensions, as defined below, which includes the 90-day negotiations extension) and to address the rent for such renewal term; and,

WHEREAS, when the Lease is referenced hereinafter, it shall be defined to include the First Amendment, Second Amendment, and the Third Amendment; and,

WHEREAS, the Landlord finds amending the Lease as set forth herein serves a valid public purpose.

NOW THEREFORE, the Landlord and Tenant, in consideration of the mutual promises herein contained and contained in the Lease, the sufficiency of which is hereby acknowledged by both parties, agree to amend the Lease as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated into this Amendment as true and correct statements of the Parties.
2. **City Commission Consideration.** This Amendment will be considered by the Landlord's City Commission at a public meeting on May 10, 2023.
3. **No Default.** The Parties agree that the Lease remains in full force and effect, that there are no defaults or disagreements with regard to the terms and conditions set forth in the Lease.

4. **Renewal Options.** In accordance with the Lease, the Tenant wishes to exercise its option to renew the Lease for eight (8) years (the "Initial Extension") and to also exercise its option to extend the Lease an additional 23 months (the "Second Extension") (includes the 90 days for the extension for continued negotiations) for a total of nine (9) years and eleven (11) months calculated from February 11, 2023 (date of expiration). The City hereby agrees to the exercise of both options herein. The Lease is hereby extended for an additional nine (9) years and eleven (11) months from February 11, 2023, through and including January 11, 2033 (hereinafter referred to as the "Extension").

5. **Rent.** Paragraph 1.9 "Rent" of the Lease shall be deleted in full and replaced with the following language:

1.9 **Rent.** The Tenant shall pay Rent as follows for the Extension:

1.9.1 For year 1, the Tenant shall pay Rent (including the Patio Area Rent) in the amount of Twenty Thousand Nine Hundred Ten Dollars and 00/100 (\$20,910.00) per month from February 11, 2023 through May 11, 2023. For the remainder of year 1, from May 12, 2023 through February 10, 2024, the Tenant shall pay \$44.00 per square foot for the Premises (consisting of 7,342 square feet), as defined in the Lease, and \$15.30 per square foot for the Patio Area Rent, as defined in the First Amendment to the Lease.

1.9.2 For year 2, from February 11, 2024 through February 10, 2025, the Tenant shall pay \$47.00 per square foot for the Premises and \$15.84 per square foot for the Patio Area Rent.

1.9.3 For year 3, from February 11, 2025 through February 10, 2026, the Tenant shall pay \$50.35 per square foot for the Premises and \$16.39 per square foot for the Patio Area Rent.

1.9.4 For years 4-9 plus 11 months of the Extension, the Rent for the Premises and the Patio Area shall increase by 3.5% per year beginning on February 11th of each year.

1.9.5 The Tenant shall also pay all applicable taxes in full, when due, and otherwise in accordance with this Lease. The Tenant shall be responsible for all penalties and late fees for its failure to comply with this subsection.

1.9.6 No security deposit shall be required under this Lease.

1.9.7 The Rent and the Patio Area Rent for the Extension are set forth in detail in **Exhibit A** which is attached hereto and incorporated herein.

6. **Agreement Unchanged.** Except as specifically amended herein, all other provisions of the Lease shall remain in full force and effect.

7. **Controlling Documents.** To the extent that there exists a conflict between this Amendment and the Lease, the terms and conditions of this Amendment shall prevail. Whenever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between the provisions of the various documents.

8. **Entire Agreement.** The Parties agree that the Lease and this Amendment represent the entire agreement between the Parties and supersede all other negotiations, representations, or agreements, either written or verbal.

9. **Counterparts.** Each Party may sign one copy of this Amendment and together, whether by signed original or facsimiled or e-mailed copy, the signed copies shall constitute one, fully executed Amendment.

IN WITNESS WHEREOF the parties hereto have made and executed this Amendment to the Lease on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

Approved as to form and legal sufficiency:

Melissa Ann Coyne, CMC, City Clerk

Glen J. Torcivia, City Attorney

TENANT: RTT-BENNY'S ON THE BEACH, INC.

By: _____
Lee M. Lipton, President

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

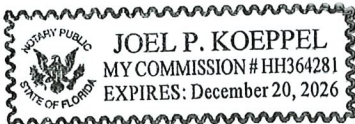
The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 9 day of May, 2023, by Lee M. Lipton, President, RTT-Benny's on the Beach, Inc., a Florida Corporation and who is personally known to me or who has produced the following _____ as identification.

Notary Public

Signature of Notary Public – State of Florida

Joel P. Koepfel

Print, Type, or Stamp
Commissioned Name of Notary Public



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RECITALS

WHEREAS, on February 11, 2013, the Landlord and Tenant (collectively, “Parties”) entered into a Lease agreement for the lease of certain space located at the Lake Worth Municipal Ocean Pier for use by the Tenant as a restaurant with incidental retail sales and a bait shop (“Lease”); and,

WHEREAS, the Landlord and Tenant entered into the First Amendment to the Lease on August 5, 2015; and,

WHEREAS, on May 19, 2020, the Landlord and Tenant entered into the Second Amendment to the Lease to revise certain terms and conditions as a result of the COVID-19 pandemic; and,

WHEREAS, on February 21, 2023, the City Commission approved the Third Amendment to the Lease to extend the Lease for 90 days to allow for continued negotiations and to establish the Rent for such extension in the amount of Twenty Thousand Nine Hundred Ten dollars and 00/100 (\$20,910.00) which included a two percent (2%) increase; and

WHEREAS, the Landlord and Tenant desire to amend the Lease to extend the Lease for the full nine (9) years and eleven (11) month term (includes Initial and Second Extensions, as defined below, which includes the 90 day negotiations extension) and to address the rent for such renewal term; and,

WHEREAS, when the Lease is referenced hereinafter, it shall be defined to include the First Amendment, Second Amendment, and the Third Amendment; and,

WHEREAS, the Landlord finds amending the Lease as set forth herein serves a valid public purpose.

NOW THEREFORE, the Landlord and Tenant, in consideration of the mutual promises herein contained and contained in the Lease, the sufficiency of which is hereby acknowledged by both parties, agree to amend the Lease as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated into this Amendment as true and correct statements of the Parties.
2. **City Commission Consideration.** This Amendment will be considered by the Landlord’s City Commission at a public meeting on April 18, 2023.
3. **No Default.** The Parties agree that the Lease remains in full force and effect, that there are no defaults or disagreements with regard to the terms and conditions set forth in the Lease.

4. **Renewal Options.** In accordance with the Lease, the Tenant wishes to exercise its option to renew the Lease for eight (8) years (the “Initial Extension”) and to also exercise its option to extend the Lease an additional 23 months (the “Second Extension”) (includes the 90 days for the extension for continued negotiations) for a total of nine (9) years and eleven (11) months calculated from February 11, 2023 (date of expiration). The City hereby agrees to the exercise of both options herein. The Lease is hereby extended for an additional nine (9) years and eleven (11) months from February 11, 2023, through and including January 11, 2033 (hereinafter referred to as the “Extension”).

5. **Rent.** Paragraph 1.9 “Rent” of the Lease shall be deleted in full and replaced with the following language:

1.9 **Rent.** The Tenant shall pay Rent as follows for the Extension:

1.9.1 For year 1, the Tenant shall pay Rent (including the Patio Area Rent) in the amount of Twenty Thousand Nine Hundred Ten Dollars and 00/100 (\$20,910.00) per month from February 11, 2023 through April 18, 2023. For the remainder of year 1, from April 19, 2023 through February 10, 2024, the Tenant shall pay \$42.00 per square foot for the Premises, as more fully set forth herein, and \$15.30 per square foot for the Patio Area Rent, as defined in the First Amendment to the Lease.

1.9.2 For year 2 of the Extension (beginning February 11, 2024), the Tenant shall pay \$44.00 per square foot for the Premises and \$15.30 per square foot for the Patio Area Rent.

1.9.3 For years 3-9 plus 11 months of the Extension, the Rent for the Premises and the Patio Area shall increase by 3.5% per year beginning on February 11th of each year.

1.9.4 No security deposit shall be required under this Lease.

1.9.5 The Rent and the Patio Area Rent for the Extension are set forth in detail in **Exhibit A** which is attached hereto and incorporated herein.

6. **Agreement Unchanged.** Except as specifically amended herein, all other provisions of the Lease shall remain in full force and effect.

7. **Controlling Documents.** To the extent that there exists a conflict between this Amendment and the Lease, the terms and conditions of this Amendment shall prevail. Whenever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between the provisions of the various documents.

8. **Entire Agreement.** The Parties agree that the Lease and this Amendment represent the entire agreement between the Parties and supersede all other negotiations, representations, or agreements, either written or verbal.

9. **Counterparts.** Each Party may sign one copy of this Amendment and together, whether by signed original or facsimiled or e-mailed copy, the signed copies shall constitute one, fully executed Amendment.

IN WITNESS WHEREOF the parties hereto have made and executed this Amendment to the Lease on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor


ATTEST:

Approved as to form and legal sufficiency:

Melissa Ann Coyne, CMC, City Clerk

Glen J. Torcivia, City Attorney

TENANT: RTT-BENNY'S ON THE BEACH, INC.

By: 

Lee M. Lipton, President

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 14th day of APRIL, 2023, by Lee M. Lipton, President, RTT-Benny's on the Beach, Inc., a Florida Corporation and who is personally known to me or who has produced the following FL DL as identification.



SHAYLA S. ELLIS
Commission # HH 001281
Expires September 19, 2024
Bonded Thru Budget Notary Services

Notary Public



Signature of Notary Public – State of Florida

SHAYLA ELLIS

Print, Type, or Stamp
Commissioned Name of Notary Public

Exhibit A

Premises square footage 7342 Patio square footage 400

FY2023	Base Rent	Patio Rent	Total
Oct	\$ 20,000.00	\$ 500.00	\$ 20,500.00
Nov	20,000.00	500.00	\$ 20,500.00
Dec	20,000.00	500.00	\$ 20,500.00
Jan	20,000.00	500.00	\$ 20,500.00
2/10/2023	7,142.86	178.57	\$ 7,321.43 <i>Pro-Rated (20,500*(10/28))</i>
2/11-2/28/2023	13,114.29	327.86	\$ 13,442.14 <i>Pro-Rated (20,910*(18/28))</i>
Mar	\$ 20,400.00	\$ 510.00	\$ 20,910.00

4/18/2023	12,240.00	306.00	\$ 12,546.00 <i>Pro-Rated (20,910*(18/30))</i>
4/19/30/2023	10,278.80	204.00	\$ 10,482.80 <i>Pro-Rated (26,207*(12/30))</i>
May	25,697.00	510.00	\$ 26,207.00
Jun	25,697.00	510.00	\$ 26,207.00
Jul	25,697.00	510.00	\$ 26,207.00
Aug	25,697.00	510.00	\$ 26,207.00
Sep	25,697.00	510.00	\$ 26,207.00
FY23 STAFF REPORT TOTAL			\$ 277,737.37

FY2024	Base Rent	Patio Rent	Total
Oct	25,697.00	510.00	\$ 26,207.00
Nov	25,697.00	510.00	\$ 26,207.00
Dec	25,697.00	510.00	\$ 26,207.00
Jan	25,697.00	510.00	\$ 26,207.00
2/10/2024	8,861.03	175.86	\$ 9,036.90 <i>Pro-Rated (26,207*(10/29))</i>
2/11-2/29/2024	17,637.68	334.14	\$ 17,971.82 <i>Pro-Rated (27,430.67*(19/29))</i>
Mar	26,920.67	510.00	\$ 27,430.67
Apr	26,920.67	510.00	\$ 27,430.67
May	26,920.67	510.00	\$ 27,430.67
Jun	26,920.67	510.00	\$ 27,430.67
Jul	26,920.67	510.00	\$ 27,430.67
Aug	26,920.67	510.00	\$ 27,430.67
Sep	26,920.67	510.00	\$ 27,430.67
FY24 STAFF REPORT TOTAL			\$ 323,851.38

FY2025	Base Rent	Patio Rent	Total
Oct	26,920.67	510.00	\$ 27,430.67
Nov	26,920.67	510.00	\$ 27,430.67
Dec	26,920.67	510.00	\$ 27,430.67
Jan	26,920.67	510.00	\$ 27,430.67
2/10/2025	9,614.52	182.14	\$ 9,796.67 <i>Pro-Rated (27,430.67*(10/28))</i>
2/11-2/28/2025	17,911.86	339.33	\$ 18,251.19 <i>Pro-Rated (28,390.74*(18/28))</i>
Mar	27,862.89	527.85	\$ 28,390.74
Apr	27,862.89	527.85	\$ 28,390.74
May	27,862.89	527.85	\$ 28,390.74
Jun	27,862.89	527.85	\$ 28,390.74
Jul	27,862.89	527.85	\$ 28,390.74
Aug	27,862.89	527.85	\$ 28,390.74
Sep	27,862.89	527.85	\$ 28,390.74
FY25 STAFF REPORT TOTAL			\$ 336,505.70

FY2026	Base Rent	Patio Rent	Total
Oct	27,862.89	527.85	\$ 28,390.74
Nov	27,862.89	527.85	\$ 28,390.74
Dec	27,862.89	527.85	\$ 28,390.74
Jan	27,862.89	527.85	\$ 28,390.74
2/10/2026	9,951.03	188.52	\$ 10,139.55 <i>Pro-Rated (28,390.74*(10/28))</i>
2/11-2/28/2026	18,538.77	351.21	\$ 18,889.98 <i>Pro-Rated (29,384.42*(18/28))</i>
Mar	28,838.09	546.32	\$ 29,384.42
Apr	28,838.09	546.32	\$ 29,384.42
May	28,838.09	546.32	\$ 29,384.42
Jun	28,838.09	546.32	\$ 29,384.42
Jul	28,838.09	546.32	\$ 29,384.42
Aug	28,838.09	546.32	\$ 29,384.42
Sep	28,838.09	546.32	\$ 29,384.42
FY26 STAFF REPORT TOTAL			\$ 348,283.40

Rent Payments through February 10, 2023		
Monthly	Annually	Per Sq. Ft.
\$ 20,000.00	\$ 240,000.00	\$ 32.69
	500.00	15.00
20,500.00	246,000.00	

Rent Payments From Feb 11 to April 18, 2023 - Extension and 2% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 20,400.00	\$ 244,800.00	\$ 33.34
510.00	6,120.00	15.30
20,910.00	250,920.00	

Proposed from April 19, 2023 to Feb 10, 2024 - 42sf & 15.30sf (26% Increase)		
Monthly	Annually	Per Sq. Ft.
\$ 25,697.00	\$ 308,364.00	\$ 42.00
510.00	6,120.00	15.30
26,207.00	314,484.00	

Proposed from Feb 11, 2024 to Feb 10, 2025 - 44 sf & 15.30sf (5% Increase)		
Monthly	Annually	Per Sq. Ft.
\$ 26,920.67	\$ 323,048.00	\$ 44.00
510.00	6,120.00	15.30
27,430.67	329,168.00	

Proposed from Feb 11, 2025 to Feb 10, 2026 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 27,862.89	\$ 334,354.68	\$ 45.54
527.85	6,334.20	15.84
28,390.74	340,688.88	

Proposed from Feb 11, 2026 to Feb 10, 2027 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 28,838.09	\$ 346,057.09	\$ 47.13
546.32	6,555.90	16.39
29,384.42	352,612.99	

Exhibit A

Premises square footage 7342 Patio square footage 400

FY2027	Base Rent	Patio Rent	Total
Oct	28,838.09	546.32	\$ 29,384.42
Nov	28,838.09	546.32	\$ 29,384.42
Dec	28,838.09	546.32	\$ 29,384.42
Jan	28,838.09	546.32	\$ 29,384.42
2/10/2027	10,299.32	195.12	\$ 10,494.43
2/11-2/28/2027	19,187.63	363.50	\$ 19,551.13
Mar	29,847.42	565.45	\$ 30,412.87
Apr	29,847.42	565.45	\$ 30,412.87
May	29,847.42	565.45	\$ 30,412.87
Jun	29,847.42	565.45	\$ 30,412.87
Jul	29,847.42	565.45	\$ 30,412.87
Aug	29,847.42	565.45	\$ 30,412.87
Sep	29,847.42	565.45	\$ 30,412.87
FY27 STAFF REPORT TOTAL			\$ 360,473.32

Premises

Patio

Proposed from Feb 11,2027 to Feb 10,2028 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 29,847.42	\$ 358,169.09	\$ 48.78
565.45	6,785.35	16.96
30,412.87	364,954.45	

Pro-Rated (29,384.42*(10/28))
Pro-Rated (30,412.87*(18/28))

FY2028	Base Rent	Patio Rent	Total
Oct	29,847.42	565.45	\$ 30,412.87
Nov	29,847.42	565.45	\$ 30,412.87
Dec	29,847.42	565.45	\$ 30,412.87
Jan	29,847.42	565.45	\$ 30,412.87
2/10/2028	10,292.22	194.98	\$ 10,487.20
2/11-2/29/2028	20,239.64	383.43	\$ 20,623.07
Mar	30,892.08	585.24	\$ 31,477.32
Apr	30,892.08	585.24	\$ 31,477.32
May	30,892.08	585.24	\$ 31,477.32
Jun	30,892.08	585.24	\$ 31,477.32
Jul	30,892.08	585.24	\$ 31,477.32
Aug	30,892.08	585.24	\$ 31,477.32
Sep	30,892.08	585.24	\$ 31,477.32
FY28 STAFF REPORT TOTAL			\$ 373,103.00

Premises

Patio

Proposed from Feb 11,2028 to Feb 10,2029 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 30,892.08	\$ 370,705.01	\$ 50.49
585.24	7,022.84	17.56
31,477.32	377,727.85	

Pro-Rated (30,412.87*(10/29))
Pro-Rated (31,477.32*(19/29))

FY2029	Base Rent	Patio Rent	Total
Oct	30,892.08	585.24	\$ 31,477.32
Nov	30,892.08	585.24	\$ 31,477.32
Dec	30,892.08	585.24	\$ 31,477.32
Jan	30,892.08	585.24	\$ 31,477.32
2/10/2029	11,032.89	209.01	\$ 11,241.90
2/11-2/28/2029	20,554.27	389.39	\$ 20,943.66
Mar	31,973.31	605.72	\$ 32,579.03
Apr	31,973.31	605.72	\$ 32,579.03
May	31,973.31	605.72	\$ 32,579.03
Jun	31,973.31	605.72	\$ 32,579.03
Jul	31,973.31	605.72	\$ 32,579.03
Aug	31,973.31	605.72	\$ 32,579.03
Sep	31,973.31	605.72	\$ 32,579.03
FY29 STAFF REPORT TOTAL			\$ 386,148.03

Premises

Patio

Proposed from Feb 11,2029 to Feb 10,2030 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 31,973.31	\$ 383,679.69	\$ 52.26
605.72	7,268.64	18.17
32,579.03	390,948.33	

Pro-Rated (31,477.32*(10/28))
Pro-Rated (32,579.03*(18/28))

FY2030	Base Rent	Patio Rent	Total
Oct	31,973.31	605.72	\$ 32,579.03
Nov	31,973.31	605.72	\$ 32,579.03
Dec	31,973.31	605.72	\$ 32,579.03
Jan	31,973.31	605.72	\$ 32,579.03
2/10/2030	11,419.04	216.33	\$ 11,635.37
2/11-2/28/2030	21,273.67	403.02	\$ 21,676.69
Mar	33,092.37	626.92	\$ 33,719.29
Apr	33,092.37	626.92	\$ 33,719.29
May	33,092.37	626.92	\$ 33,719.29
Jun	33,092.37	626.92	\$ 33,719.29
Jul	33,092.37	626.92	\$ 33,719.29
Aug	33,092.37	626.92	\$ 33,719.29
Sep	33,092.37	626.92	\$ 33,719.29
FY30 STAFF REPORT TOTAL			\$ 399,663.22

Premises

Patio

Proposed from Feb 11,2030 to Feb 10,2031 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 33,092.37	\$ 397,108.47	\$ 54.09
626.92	7,523.04	18.81
33,719.29	404,631.52	

Pro-Rated (32,579.03*(10/28))
Pro-Rated (33,719.29*(18/28))

Exhibit A

Premises square footage 7342 Patio square footage 400

FY2031	Base Rent	Patio Rent	Total
Oct	33,092.37	626.92	\$ 33,719.29
Nov	33,092.37	626.92	\$ 33,719.29
Dec	33,092.37	626.92	\$ 33,719.29
Jan	33,092.37	626.92	\$ 33,719.29
2/10/2031	11,818.70	223.90	\$ 12,042.60 <i>Pro-Rated (33,719.29*(10/28))</i>
2/11-2/28/2031	22,018.25	417.13	\$ 22,435.37 <i>Pro-Rated (34,899.47*(18/28))</i>
Mar	34,250.61	648.86	\$ 34,899.47
Apr	34,250.61	648.86	\$ 34,899.47
May	34,250.61	648.86	\$ 34,899.47
Jun	34,250.61	648.86	\$ 34,899.47
Jul	34,250.61	648.86	\$ 34,899.47
Aug	34,250.61	648.86	\$ 34,899.47
Sep	34,250.61	648.86	\$ 34,899.47
FY31 STAFF REPORT TOTAL			\$ 413,651.43

Premises
Patio

Proposed from Feb 11,2031 to Feb 10,2032 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 34,250.61	\$ 411,007.27	\$ 55.98
648.86	7,786.35	19.47
34,899.47	418,793.62	

FY2032	Base Rent	Patio Rent	Total
Oct	34,250.61	648.86	\$ 34,899.47
Nov	34,250.61	648.86	\$ 34,899.47
Dec	34,250.61	648.86	\$ 34,899.47
Jan	34,250.61	648.86	\$ 34,899.47
2/10/2032	11,810.55	223.75	\$ 12,034.30 <i>Pro-Rated (34,899.47*(10/29))</i>
2/11-2/28/2032	23,225.45	440.00	\$ 23,665.45 <i>Pro-Rated (36,120.95*(19/29))</i>
Mar	35,449.38	671.57	\$ 36,120.95
Apr	35,449.38	671.57	\$ 36,120.95
May	35,449.38	671.57	\$ 36,120.95
Jun	35,449.38	671.57	\$ 36,120.95
Jul	35,449.38	671.57	\$ 36,120.95
Aug	35,449.38	671.57	\$ 36,120.95
Sep	35,449.38	671.57	\$ 36,120.95
FY32 STAFF REPORT TOTAL			\$ 428,144.27

Premises
Patio

Proposed from Feb 11,2032 to Jan 11,2033 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 35,449.38	\$ 425,392.53	\$ 57.94
671.57	8,058.87	20.15
36,120.95	433,451.40	

FY2033	Base Rent	Patio Rent	Total
Oct	35,449.38	671.57	\$ 36,120.95
Nov	35,449.38	671.57	\$ 36,120.95
Dec	35,449.38	671.57	\$ 36,120.95
1/11/2033	12,578.81	238.30	\$ 12,817.11 <i>Pro-Rated (36,120.95*(11/31))</i>
Feb	-	-	\$ -
2/11-2/28/2033	-	-	\$ -
Mar	-	-	\$ -
Apr	-	-	\$ -
May	-	-	\$ -
Jun	-	-	\$ -
Jul	-	-	\$ -
Aug	-	-	\$ -
Sep	-	-	\$ -
FY33 STAFF REPORT TOTAL			\$ 121,179.96

Exhibit A

Premises square footage 7342 Patio square footage 400

FY2023	Base Rent	Patio Rent	Total
Oct	\$ 20,000.00	\$ 500.00	\$ 20,500.00
Nov	20,000.00	500.00	20,500.00
Dec	20,000.00	500.00	20,500.00
Jan	20,000.00	500.00	20,500.00
2/10/2023	7,142.86	178.57	\$ 7,321.43 <i>Pro-Rated (20,500*(10/28))</i>
2/11-2/28/2023	13,114.29	327.86	\$ 13,442.14 <i>Pro-Rated (20,910*(18/28))</i>
Mar	\$ 20,400.00	\$ 510.00	\$ 20,910.00

Rent Payments through February 10, 2023		
Monthly	Annually	Per Sq. Ft.
\$ 20,000.00	\$ 240,000.00	\$ 32.69
500.00	6,000.00	15.00
20,500.00	246,000.00	

Rent Payments From Feb 11 to May 11, 2023 Extension and 2% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 20,400.00	\$ 244,800.00	\$ 33.34
510.00	6,120.00	15.30
20,910.00	250,920.00	

YEAR 1 (REVISED PROPOSAL)

Proposed from May 12, 2023 to Feb 10, 2024 - 44sf & 15.30sf (32% Increase)		
Monthly	Annually	Per Sq. Ft.
\$ 26,920.67	\$ 323,048.00	\$ 44.00
510.00	6,120.00	15.30
27,430.67	329,168.00	

Proposed from May 12, 2023 to Feb 10, 2024 - 44sf & 15.30sf (32% Increase)		
Monthly	Annually	Per Sq. Ft.
\$ 25,697.00	\$ 308,364.00	\$ 42.00
510.00	6,120.00	15.30
26,207.00	314,484.00	

YEAR 1 (1ST PROPOSAL)

Apr	20,400.00	510.00	\$ 20,910.00
5/11/2023	7,238.71	180.97	\$ 7,419.68 <i>Pro-Rated (20,910*(11/31))</i>
5/12-31/2023	17,368.17	329.03	\$ 17,697.20 <i>Pro-Rated (27,430.67*(20/31))</i>
Jun	26,920.67	510.00	\$ 27,430.67
Jul	26,920.67	510.00	\$ 27,430.67
Aug	26,920.67	510.00	\$ 27,430.67
Sep	26,920.67	510.00	\$ 27,430.67
FY23 STAFF REPORT TOTAL	\$ 209,423.12		

INCREASE FROM 1ST PROPOSAL 1,223.67 14,684.00

YEAR 2 (REVISED PROPOSAL)

Proposed from Feb 11, 2024 to Feb 10, 2025 - 47 sf & 15.30sf (7% Increase)		
Monthly	Annually	Per Sq. Ft.
\$ 28,756.17	\$ 345,074.00	\$ 47.00
528.00	6,336.00	15.84
29,284.17	351,410.00	

Proposed from Feb 11, 2024 to Feb 10, 2025 - 47 sf & 15.30sf (7% Increase)		
Monthly	Annually	Per Sq. Ft.
\$ 26,920.67	\$ 323,048.00	\$ 44.00
510.00	6,120.00	15.30
27,430.67	329,168.00	

YEAR 2 (1ST PROPOSAL)

FY2024	Base Rent	Patio Rent	Total
Oct	26,920.67	510.00	\$ 27,430.67
Nov	26,920.67	510.00	\$ 27,430.67
Dec	26,920.67	510.00	\$ 27,430.67
Jan	26,920.67	510.00	\$ 27,430.67
2/10/2024	9,282.99	175.86	\$ 9,458.85 <i>Pro-Rated</i>
2/11-2/29/2024	18,840.25	334.14	\$ 19,174.39 <i>Pro-Rated</i>
Mar	28,756.17	528.00	\$ 29,284.17
Apr	28,756.17	528.00	\$ 29,284.17
May	28,756.17	528.00	\$ 29,284.17
Jun	28,756.17	528.00	\$ 29,284.17
Jul	28,756.17	528.00	\$ 29,284.17
Aug	28,756.17	528.00	\$ 29,284.17
Sep	28,756.17	528.00	\$ 29,284.17
FY24 STAFF REPORT TOTAL	\$ 343,345.07		

INCREASE FROM 1ST PROPOSAL 1,853.50 22,242.00

YEAR 3 (REVISED PROPOSAL)

Proposed from Feb 11, 2025 to Feb 10, 2026 - 7% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 30,805.81	\$ 369,669.70	\$ 50.35
546.33	6,556.00	16.39
31,352.14	376,225.70	

Proposed from Feb 11, 2025 to Feb 10, 2026 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 27,862.89	\$ 334,354.68	\$ 45.54
527.85	6,334.20	15.84
28,390.74	340,688.88	

YEAR 3 (1ST PROPOSAL)

FY2025	Base Rent	Patio Rent	Total
Oct	28,756.17	528.00	\$ 29,284.17
Nov	28,756.17	528.00	\$ 29,284.17
Dec	28,756.17	528.00	\$ 29,284.17
Jan	28,756.17	528.00	\$ 29,284.17
2/10/2025	10,270.06	188.57	\$ 10,458.63 <i>Pro-Rated</i>
2/11-2/28/2025	19,803.73	351.21	\$ 20,154.95 <i>Pro-Rated</i>
Mar	30,805.81	546.33	\$ 31,352.14
Apr	30,805.81	546.33	\$ 31,352.14
May	30,805.81	546.33	\$ 31,352.14
Jun	30,805.81	546.33	\$ 31,352.14
Jul	30,805.81	546.33	\$ 31,352.14
Aug	30,805.81	546.33	\$ 31,352.14
Sep	30,805.81	546.33	\$ 31,352.14
FY25 STAFF REPORT TOTAL	\$ 367,215.24		

INCREASE FROM 1ST PROPOSAL 2,961.40 35,536.82

YEAR 4 (REVISED PROPOSAL)

Proposed from Feb 11, 2026 to Feb 10, 2027 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 31,884.01	\$ 382,608.14	\$ 52.11
565.46	6,785.46	16.96
32,449.47	389,393.60	

Proposed from Feb 11, 2026 to Feb 10, 2027 - 3.5% Increase		
Monthly	Annually	Per Sq. Ft.
\$ 28,838.09	\$ 346,057.09	\$ 47.13
546.32	6,555.90	16.39
29,384.42	352,612.99	

YEAR 4 (1ST PROPOSAL)

FY2026	Base Rent	Patio Rent	Total
Oct	30,805.81	546.33	\$ 31,352.14
Nov	30,805.81	546.33	\$ 31,352.14
Dec	30,805.81	546.33	\$ 31,352.14
Jan	30,805.81	546.33	\$ 31,352.14
2/10/2026	11,002.07	195.12	\$ 11,197.19 <i>Pro-Rated</i>
2/11-2/28/2026	20,496.86	363.51	\$ 20,860.37 <i>Pro-Rated</i>
Mar	31,884.01	565.46	\$ 32,449.47
Apr	31,884.01	565.46	\$ 32,449.47
May	31,884.01	565.46	\$ 32,449.47
Jun	31,884.01	565.46	\$ 32,449.47
Jul	31,884.01	565.46	\$ 32,449.47
Aug	31,884.01	565.46	\$ 32,449.47
Sep	31,884.01	565.46	\$ 32,449.47
FY26 STAFF REPORT TOTAL	\$ 384,612.40		

INCREASE FROM 1ST PROPOSAL 3,065.05 36,780.61

Exhibit A

Premises square footage 7342 Patio square footage 400

FY2027	Base Rent	Patio Rent	Total
Oct	31,884.01	565.46	\$ 32,449.47
Nov	31,884.01	565.46	\$ 32,449.47
Dec	31,884.01	565.46	\$ 32,449.47
Jan	31,884.01	565.46	\$ 32,449.47
2/10/2027	11,387.15	201.95	\$ 11,589.10 <i>Pro-Rated</i>
2/11-2/28/2027	21,214.25	376.23	\$ 21,590.48 <i>Pro-Rated</i>
Mar	32,999.95	585.25	\$ 33,585.20
Apr	32,999.95	585.25	\$ 33,585.20
May	32,999.95	585.25	\$ 33,585.20
Jun	32,999.95	585.25	\$ 33,585.20
Jul	32,999.95	585.25	\$ 33,585.20
Aug	32,999.95	585.25	\$ 33,585.20
Sep	32,999.95	585.25	\$ 33,585.20
FY27 STAFF REPORT TOTAL			\$ 398,073.83

YEAR 5 (REVISED PROPOSAL)

Proposed from Feb 11,2027 to Feb 10,2028 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 32,999.95	\$ 395,999.42	\$ 53.94
Patio	585.25	7,022.95	17.56
Total	33,585.20	403,022.38	

YEAR 5 (1ST PROPOSAL)

Proposed from Feb 11,2027 to Feb 10,2028 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 29,847.42	\$ 358,169.09	\$ 48.78
Patio	565.45	6,785.35	16.96
Total	30,412.87	364,954.45	

INCREASE FROM 1ST PROPOSAL 3,172.33 38,067.93

FY2028	Base Rent	Patio Rent	Total
Oct	32,999.95	585.25	\$ 33,585.20
Nov	32,999.95	585.25	\$ 33,585.20
Dec	32,999.95	585.25	\$ 33,585.20
Jan	32,999.95	585.25	\$ 33,585.20
2/10/2028	11,379.29	201.81	\$ 11,581.10 <i>Pro-Rated</i>
2/11-2/29/2028	22,377.38	396.86	\$ 22,774.24 <i>Pro-Rated</i>
Mar	34,154.95	605.73	\$ 34,760.68
Apr	34,154.95	605.73	\$ 34,760.68
May	34,154.95	605.73	\$ 34,760.68
Jun	34,154.95	605.73	\$ 34,760.68
Jul	34,154.95	605.73	\$ 34,760.68
Aug	34,154.95	605.73	\$ 34,760.68
Sep	34,154.95	605.73	\$ 34,760.68
FY28 STAFF REPORT TOTAL			\$ 412,020.89

YEAR 6 (REVISED PROPOSAL)

Proposed from Feb 11,2028 to Feb 10,2029 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 34,154.95	\$ 409,859.40	\$ 55.82
Patio	605.73	7,268.75	18.17
Total	34,760.68	417,128.16	

YEAR 6 (1ST PROPOSAL)

Proposed from Feb 11,2028 to Feb 10,2029 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 30,892.08	\$ 370,705.01	\$ 50.49
Patio	585.24	7,022.84	17.56
Total	31,477.32	377,727.85	

INCREASE FROM 1ST PROPOSAL 3,283.36 39,400.31

FY2029	Base Rent	Patio Rent	Total
Oct	34,154.95	605.73	\$ 34,760.68
Nov	34,154.95	605.73	\$ 34,760.68
Dec	34,154.95	605.73	\$ 34,760.68
Jan	34,154.95	605.73	\$ 34,760.68
2/10/2029	12,198.20	216.33	\$ 12,414.53 <i>Pro-Rated</i>
2/11-2/28/2029	22,725.24	403.03	\$ 23,128.27 <i>Pro-Rated</i>
Mar	35,350.37	626.93	\$ 35,977.30
Apr	35,350.37	626.93	\$ 35,977.30
May	35,350.37	626.93	\$ 35,977.30
Jun	35,350.37	626.93	\$ 35,977.30
Jul	35,350.37	626.93	\$ 35,977.30
Aug	35,350.37	626.93	\$ 35,977.30
Sep	35,350.37	626.93	\$ 35,977.30
FY29 STAFF REPORT TOTAL			\$ 426,426.64

YEAR 7 (REVISED PROPOSAL)

Proposed from Feb 11,2029 to Feb 10,2030 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 35,350.37	\$ 424,204.48	\$ 57.78
Patio	626.93	7,523.16	18.81
Total	35,977.30	431,727.64	

YEAR 7 (1ST PROPOSAL)

Proposed from Feb 11,2029 to Feb 10,2030 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 31,973.31	\$ 383,679.69	\$ 52.26
Patio	605.72	7,268.64	18.17
Total	32,579.03	390,948.33	

INCREASE FROM 1ST PROPOSAL 3,398.28 40,779.32

FY2030	Base Rent	Patio Rent	Total
Oct	35,350.37	626.93	\$ 35,977.30
Nov	35,350.37	626.93	\$ 35,977.30
Dec	35,350.37	626.93	\$ 35,977.30
Jan	35,350.37	626.93	\$ 35,977.30
2/10/2030	12,625.13	223.90	\$ 12,849.04 <i>Pro-Rated</i>
2/11-2/28/2030	23,520.62	417.13	\$ 23,937.76 <i>Pro-Rated</i>
Mar	36,587.64	648.87	\$ 37,236.51
Apr	36,587.64	648.87	\$ 37,236.51
May	36,587.64	648.87	\$ 37,236.51
Jun	36,587.64	648.87	\$ 37,236.51
Jul	36,587.64	648.87	\$ 37,236.51
Aug	36,587.64	648.87	\$ 37,236.51
Sep	36,587.64	648.87	\$ 37,236.51
FY30 STAFF REPORT TOTAL			\$ 441,351.57

YEAR 8 (REVISED PROPOSAL)

Proposed from Feb 11,2030 to Feb 10,2031 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 36,587.64	\$ 439,051.64	\$ 59.80
Patio	648.87	7,786.47	19.47
Total	37,236.51	446,838.11	

YEAR 8 (1ST PROPOSAL)

Proposed from Feb 11,2030 to Feb 10,2031 - 3.5% Increase			
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 33,092.37	\$ 397,108.47	\$ 54.09
Patio	626.92	7,523.04	18.81
Total	33,719.29	404,631.52	

INCREASE FROM 1ST PROPOSAL 3,517.22 42,206.59

Exhibit A

Premises square
footage 7342

Patio square
footage 400

FY2031	Base Rent	Patio Rent	Total
Oct	36,587.64	648.87	\$ 37,236.51
Nov	36,587.64	648.87	\$ 37,236.51
Dec	36,587.64	648.87	\$ 37,236.51
Jan	36,587.64	648.87	\$ 37,236.51
2/10/2031	13,067.01	231.74	\$ 13,298.75 <i>Pro-Rated</i>
2/11-2/28/2031	24,343.85	431.73	\$ 24,775.58 <i>Pro-Rated</i>
Mar	37,868.20	671.58	\$ 38,539.79
Apr	37,868.20	671.58	\$ 38,539.79
May	37,868.20	671.58	\$ 38,539.79
Jun	37,868.20	671.58	\$ 38,539.79
Jul	37,868.20	671.58	\$ 38,539.79
Aug	37,868.20	671.58	\$ 38,539.79
Sep	37,868.20	671.58	\$ 38,539.79
FY31 STAFF REPORT TOTAL			\$ 456,798.88

YEAR 9 (REVISED PROPOSAL)

	Proposed from Feb 11,2032 to Feb 10,2032 - 3.5% Increase		
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 37,868.20	\$ 454,418.45	\$ 61.89
Patio	671.58	8,059.00	20.15
Total	38,539.79	462,477.45	

YEAR 9 (1ST PROPOSAL)

	Proposed from Feb 11,2031 to Feb 10,2032 - 3.5% Increase		
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 34,250.61	\$ 411,007.27	\$ 55.98
Patio	648.86	7,786.35	19.47
Total	34,899.47	418,793.62	

INCREASE FROM 1ST PROPOSAL 3,640.32 43,683.83

FY2032	Base Rent	Patio Rent	Total
Oct	37,868.20	671.58	\$ 38,539.79
Nov	37,868.20	671.58	\$ 38,539.79
Dec	37,868.20	671.58	\$ 38,539.79
Jan	37,868.20	671.58	\$ 38,539.79
2/10/2032	13,058.00	231.58	\$ 13,289.58 <i>Pro-Rated</i>
2/11-2/29/2032	25,678.56	455.40	\$ 26,133.96 <i>Pro-Rated</i>
Mar	39,193.59	695.09	\$ 39,888.68
Apr	39,193.59	695.09	\$ 39,888.68
May	39,193.59	695.09	\$ 39,888.68
Jun	39,193.59	695.09	\$ 39,888.68
Jul	39,193.59	695.09	\$ 39,888.68
Aug	39,193.59	695.09	\$ 39,888.68
Sep	39,193.59	695.09	\$ 39,888.68
FY32 STAFF REPORT TOTAL			\$ 472,803.45

YEAR 10 (REVISED PROPOSAL)

	Proposed from Feb 11,2032 to Jan 11,2033 - 3.5% Increase		
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 39,193.59	\$ 470,323.09	\$ 64.06
Patio	695.09	8,341.06	20.85
Total	39,888.68	478,664.16	

YEAR 10 (1ST PROPOSAL)

	Proposed from Feb 11,2032 to Jan 11,2033 - 3.5% Increase		
	Monthly	Annually	Per Sq. Ft.
Premises	\$ 35,449.38	\$ 425,392.53	\$ 57.94
Patio	671.57	8,058.87	20.15
Total	36,120.95	433,451.40	

INCREASE FROM 1ST PROPOSAL 3,767.73 45,212.76

TOTAL INCREASE FROM 1ST PROPOSAL \$ 317,814.85

FY2033	Base Rent	Patio Rent	Total
Oct	39,193.59	695.09	\$ 39,888.68
Nov	39,193.59	695.09	\$ 39,888.68
Dec	39,193.59	695.09	\$ 39,888.68
1/11/2033	13,907.40	246.64	\$ 14,154.05 <i>Pro-Rated</i>
Feb	-	-	\$ -
2/11-2/28/2033	-	-	\$ -
Mar	-	-	\$ -
Apr	-	-	\$ -
May	-	-	\$ -
Jun	-	-	\$ -
Jul	-	-	\$ -
Aug	-	-	\$ -
Sep	-	-	\$ -
FY33 STAFF REPORT TOTAL			\$ 133,820.09

THIRD AMENDMENT TO LEASE

THIS THIRD AMENDMENT TO THE LEASE (“Amendment”) is made this _____ day of _____, 2023, between the City of Lake Worth Beach, Florida, a municipal corporation (“Landlord”), and RTT-Benny’s on the Beach, Inc., a Florida corporation (“Tenant”).

RECITALS

WHEREAS, on February 11, 2013, the Landlord and Tenant (collectively, “Parties”) entered into a Lease agreement for the lease of certain space located at the Lake Worth Municipal Ocean Pier for use by the TENANT as a restaurant with incidental retail sales and a bait shop (“Lease”); and,

WHEREAS, the Landlord and Tenant entered into the First Amendment to the Lease on August 5, 2015; and,

WHEREAS, on May 19, 2020, the Landlord and Tenant entered into the Second Amendment to the Lease to revise certain terms and conditions as a result of the COVID-19 pandemic; and,

WHEREAS, the Landlord and Tenant are in negotiations to amend the Lease to extend the Lease for an additional term(s) and to address the Rent for such additional term(s); and,

WHEREAS, when the Lease is referenced hereinafter, it shall be defined to include the First Amendment and the Second Amendment; and,

WHEREAS, the Landlord finds amending the Lease as set forth herein serves a valid public purpose.

NOW THEREFORE, the Landlord and Tenant, in consideration of the mutual promises herein contained and contained in the Lease, the sufficiency of which is hereby acknowledged by both parties, agree to amend the Lease as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated into this Amendment as true and correct statements of the Parties.
2. **City Commission Consideration.** This Amendment was considered by the Landlord’s City Commission at a public meeting on February 21, 2023, and the City Commission approved the same with direction to City staff to continue negotiations.
3. **No Default.** The Parties agree that the Lease remains in full force and effect, that there are no defaults or disagreements with regard to the terms and conditions set forth in the Lease.
4. **Negotiations Extension.** The Lease is hereby extended for an additional ninety (90) days to allow for continued negotiations between the Parties (“Negotiations Extension”).
5. **Rent.** Unless otherwise agreed in writing by the Parties, for the duration of this Negotiations Extension, the Tenant shall pay as Rent the amount of **Twenty Thousand Nine Hundred Ten Dollars and 00/100 (\$20,910.00)** per month, plus applicable taxes, for the

Hundred Ten Dollars and 00/100 (\$20,910.00) per month, plus applicable taxes, for the Premises, as more fully set forth in the Lease. This Rent amount includes the Patio Area Rent and a two percent (2%) increase from the Rent currently paid under the Lease. No security deposit shall be required under this Negotiations Extension of the Lease.

6. **Agreement Unchanged.** Except as specifically amended herein, all other provisions of the Lease shall remain in full force and effect.

7. **Controlling Documents.** To the extent that there exists a conflict between this Amendment and the Lease, the terms and conditions of this Amendment shall prevail. Whenever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between the provisions of the various documents.

8. **Entire Agreement.** The Parties agree that the Lease and this Amendment represent the entire agreement between the Parties and supersede all other negotiations, representations, or agreements, either written or verbal.

9. **Counterparts.** Each Party may sign one copy of this Amendment and together, whether by signed original or facsimiled or e-mailed copy, the signed copies shall constitute one, fully executed Amendment.

IN WITNESS WHEREOF the parties hereto have made and executed this Amendment to the Lease on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

Witnesses (two for each):

Signature

By: _____
Betty Resch, Mayor

Print Name

Signature

Print Name

ATTEST:

Approved as to form and legal sufficiency:

Melissa Ann Coyne, CMC, City Clerk

Glen J. Torcivia, City Attorney

TENANT: **RTT-BENNY'S ON THE BEACH, INC.**

Witnesses (two):

Shona M. Smith
Signature

Shona M. Smith
Print Name

Francis J. Kelly
Signature

FRANCIS J. KELLY
Print Name

By: Lee M. Lipton
Lee M. Lipton, President

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 14TH day of APRIL, 2023, by Lee M. Lipton, President, RTT-Benny's on the Beach, Inc., a Florida Corporation and who is personally known to me or who has produced the following FL DL as identification.



SHAYLA S. ELLIS
Commission # HH 001261
Expires September 19, 2024
Bonded Thru Budget Notary Services

Notary Public
Shayla S. Ellis
Signature of Notary Public – State of Florida

SHAYLA ELLIS

Print, Type, or Stamp
Commissioned Name of Notary Public

SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO THE LEASE (“Second Amendment” hereinafter) is made this 19th day of May, 2020, between the **City of Lake Worth Beach**, Florida, a municipal corporation (the “Landlord”), and **RTT-Benny’s on the Beach, Inc.**, a Florida corporation (the “Tenant”).

RECITALS

WHEREAS, on February 11, 2013, the Landlord and Tenant (collectively, the “Parties”) entered into a Lease for the lease of certain space located at the Lake Worth Municipal Ocean Pier for use by the Tenant as a restaurant with incidental pier management, retail sales and a bait shop (the “Lease”); and,

WHEREAS, the Landlord and Tenant entered into the First Amendment to the Lease on August 5, 2015, which addressed the use of the additional outdoor patio area by the Tenant; and,

WHEREAS, the Landlord and Tenant desire to amend the Lease to address changes to the terms and conditions of the Lease associated with the COVID-19 pandemic; and,

WHEREAS, the Landlord finds amending the Lease as set forth herein serves a valid public purpose.

NOW THEREFORE, the Landlord and Tenant, in consideration of the mutual promises herein contained and contained in the Lease, the sufficiency of which is hereby acknowledged by both parties, agree to amend the Lease as follows:

1. **RECITALS.** The foregoing recitals are hereby incorporated into this Second Amendment as true and correct statements of the Parties.
2. **NO DEFAULT.** The Parties agree that the Lease remains in full force and effect, that there are no defaults or disagreements with regard to the terms and conditions set forth in the Lease.
3. **LANDLORD.** Subsection 1.1 of the Lease, entitled “Landlord”, is amended to reflect the new name of the Landlord as follows:

1.1 Landlord. CITY OF LAKE WORTH BEACH, a municipal corporation under the laws of the State of Florida.

4. **RENT ABATEMENT/DEFERRAL.** Subsection 4.4 of the Lease, entitled “Rent”, is amended to include a new sub-subsection, 4.4.1, as follows:

“4.4.1 General. Due to the COVID-19 pandemic, on March 20, 2020, Florida Governor Ron DeSantis issued Executive Order 20-70, which closed indoor premise service by restaurants with seating of more than ten (10) people. This resulted in Tenant having to close the leased premises on March 20, 2020. On May 11, 2020, the Governor through Executive Order 20-120 (based on Executive Order 20-112) authorized the Tenant to re-open indoor premise service so long as the Tenant adopted appropriate social distancing measures and limited Tenant’s indoor occupancy to no more than 25 percent of Tenant’s building occupancy. This Executive Order also allowed Tenant to start serving its outdoor areas (subject to mandatory social distancing between tables and limited to groups of 10 or less people). It is anticipated (but not known) that the Governor will continue to ease the COVID-19 restrictions and allow for further indoor premise service by Tenant. Based on the foregoing, the following amendments are made to this Subsection 4.4:

4.4.1.1 Tenant and Landlord agree that despite the COVID-19 restrictions, Tenant shall pay all March, April and May Rent as due under the Lease without any abatement or deferral of any amounts due as Rent.

4.4.1.2 If on **June 1, 2020 and each month thereafter until November 1, 2020**, there are still governmental COVID-19 pandemic restrictions in place on Tenant's indoor occupancy which restricts the Tenant's existing occupancy level, the Landlord agrees to abate and defer Tenant's Base Rent as follows: 50 percent of all Base Rent will be abated ("Abated Rent") and 50 percent of all Base Rent will be deferred ("Deferred Rent"). The Abated Rent amount shall not be paid by Tenant and not collected by Landlord. Tenant shall have one (1) year from the Date of Reopening (as defined below) to pay the Deferred Rent. If Tenant fails to pay the Deferred Rent within one (1) year from the Date of Reopening (as defined below), the Landlord, in addition to all other rights and remedies under this Lease and under applicable law, shall have the right to declare all Rent due under the then existing Lease term, including the Deferred Rent plus interest, as immediately due and payable. Failure to pay the Deferred Rent shall also be considered a Monetary Default under section 7 of the Lease. The Deferred Rent shall accrue interest from the Date of Reopening (as defined below) until paid in full at the rate set forth in section 55.03, Florida Statutes, regarding interest on judgments.

4.4.1.3 As of the Date of Reopening (as defined below), Tenant shall resume payment of all Rent due under the Lease without abatement or deferral under any provision of the Lease or under subsection 4.4.1.2 above.

4.4.1.4 For subsections 4.4.1.2 and 4.4.1.3 above, the "Date of Reopening" is defined as the earlier of the following dates: (1) the date that all federal, state and local restrictions related to COVID-19 are released; or, (2) **November 1, 2020.**"

5. **IMPOSSIBILITY OF PERFORMANCE.** Under Section 28 of the Lease, payment of Rent is not excused in the event of an "Unavoidable Delay" as defined therein. In light of COVID-19 restrictions and impacts on the Tenant, the Landlord and Tenant agree to add the following provision under Section 28:

"Notwithstanding the foregoing, **if on November 1, 2020 or thereafter**, governmental restrictions are imposed due to an infectious disease which restrictions limit the Tenant's use of its existing indoor occupancy, Tenant's payment of the then accruing Base Rent shall be deferred consistent with the extent that the governmental regulations restrict Tenant's existing indoor occupancy ("Additional Deferred Rent"). By way of example only, if governmental restrictions due to an infectious disease limits Tenant's existing indoor occupancy to 25 percent of Tenant's indoor occupancy, 75 percent of Tenant's then accruing Base Rent shall be deferred until the Date of Reopening (as defined below). During the period of time in which Tenant's Base Rent is deferred under this provision, Tenant shall not be entitled to any abatement of the Rent under this Lease or otherwise. Tenant shall have one (1) year from the Date of Reopening (as defined below) to pay the Additional Deferred Rent to the Landlord. If Tenant fails to pay the Additional Deferred Rent within one (1) year from the Date of Reopening (as defined below), the Landlord, in addition to all other rights and remedies under this Lease and under applicable law, shall have the right to declare all Rent due under the then existing Lease term, including the Additional Deferred Rent plus interest, as immediately due and payable. Failure to pay the Additional Deferred Rent shall also be considered a Monetary Default under section 7 of the Lease. The Additional Deferred Rent shall accrue interest from the Date of Reopening (as defined below) until paid in full at the rate set forth in section 55.03, Florida Statutes, regarding interest on judgments. As of the Date of Reopening (as defined below), Tenant shall resume payment of all Rent due under the Lease without abatement or deferral under any provision of the Lease or otherwise. For this provision regarding Additional Deferred Rent, the "Date of Reopening" is defined as the earlier of the following dates: (1) the date that all governmental restrictions related to the infectious disease are released; or, (2) one year from the date the governmental restrictions were put in place (even if governmental restrictions are still in place). If new governmental restrictions are mandated during the one

(1) year of Tenant’s repayment of the Additional Deferred Rent due to a new infectious disease, the Tenant’s repayment of the Additional Deferred Rent shall not be abated or deferred. However, this provision will apply to the new infectious disease and will allow for the deferral of the Tenant’s Base Rent then accruing consistent with the extent of the new mandated governmental restrictions on Tenant’s indoor occupancy.”

6. **SCRUTINIZED COMPANIES.** A new Section 32.15 is added to the Lease as follows:

32.15 **SCRUTINIZED COMPANIES.**

32.15.1 Tenant certifies that it and any sublessee is not on the Scrutinized Companies that Boycott Israel List and is not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the Landlord may immediately terminate this Lease at its sole option if the Tenant or a sublessee is found to have submitted a false certification; or if the Tenant or sublessee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Lease.

32.15.2 The Tenant agrees to observe the above requirements for applicable subleases entered into for performance under the Lease.

32.15.3 The Tenant agrees that the certifications in this section shall be effective and relied upon by the Landlord for the term of the Lease, including any and all renewals.

32.15.4 The Tenant agrees that if it or any of its sublessees’ status changes in regards to any certification herein, the Tenant shall immediately notify the Landlord of the same.

32.15.5 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

7. **COUNTERPARTS.** Each party may sign one copy of this Second Amendment and together, whether by signed original or facsimiled or e-mailed copy, the signed copies shall constitute one, fully executed Second Amendment.

8. **ENTIRE AGREEMENT.** This Second Amendment is intended to amend the Lease as specified herein and shall take precedence over the Lease and the First Amendment. All other terms of the Lease, as previously amended by the First Amendment, that are not amended by this Second Amendment shall remain in full force and effect. No other agreements, statement, or promise relating to the subject matter of this Second Amendment and the Lease, as amended by the First Amendment, which are not contained herein or therein shall be valid or binding.

9. **EFFECTIVE DATE.** This Second Amendment shall not be binding upon the parties until approved by the Tenant and the City Commission of the City of Lake Worth Beach, as the Landlord. The Effective Date of this Second Amendment shall be the date this Second Amendment is approved and fully executed by the Landlord.

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SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to the Lease (with RTT-Benny's on the Beach, Inc., as the Tenant) to be executed by their duly authorized representatives on the date(s) set forth below.

LANDLORD: CITY OF LAKE WORTH BEACH, FLORIDA

Witness:
By: [Signature]

Print Name: Wanda Maldonado

By: [Signature]
Betty Resch, Mayor

Date: 8/18/21



ATTEST:

Melissa Ann Coyne, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: Christy Goddeau
Glen J. Torcivia, City Attorney

APPROVED FOR FINANCIAL SUFFICIENCY

By: Bruce Miller
Bruce T. Miller, Financial Services Director

TENANT: RTT-BENNY'S ON THE BEACH, INC.

Witnesses (two):
[Signature]
Signature

LEELA WHARWOOD
Print Name

[Signature]
Signature

Frank Block
Print Name

By: [Signature]
Print Name: LEE LIPTON
Title: president

Date: 7/13/2021

STATE OF FLORIDA)
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me, by means of [] physical presence or [] online notarization, this 13 day of July, 2020, ~~2021~~ by LEE LIPTON as the PRESIDENT (title) of RTT-Benny's on the Beach Inc, and who is personally known to me or who has produced the following photo as identification.



Notary Public [Signature]
Print name: LEELA WHARWOOD
My commission expires: 6/1/2023

Benny's Lease Agreement Supplemental Information

Future Base and Patio Rent plus 2% annual increase

Years	Future Value (2.00%)
2023	\$ 250,920.00
2024	\$ 255,938.40
2025	\$ 261,057.17
2026	\$ 266,278.31
2027	\$ 271,603.88
2028	\$ 277,035.96
2029	\$ 282,576.67
2030	\$ 288,228.21
2031	\$ 293,992.77
2032	\$ 299,872.63

Pier fishermen parking pass revenue:

There is no rent payment requirement per the lease agreement; Benny's operates the Pier and bait shop and assumes all expenses related to the operation for the bait shop and some of the maintenance of the pier (per the lease pressure washing). The City receives revenue for the parking passes sold to the fishermen that use the pier.

Revenues from fishermen parking passes sales

2014	\$ 27,163.29
2015	\$ 19,363.24
2016	\$ 24,099.06
2017	\$ 24,237.18
2018	\$ 30,951.39
2019	\$ 28,013.52
2020	\$ 26,906.53
2021	\$ 29,294.39
2022	\$ 26,056.07
2023	\$ 10,476.96
Total	\$ 246,561.63

Property Taxes paid by Benny's

2022	\$ 43,976.02
2021	\$ 42,486.48
2020	\$ 40,182.83
2019	\$ 38,179.39
2018	\$ 34,924.04
2017	\$ 31,519.70
2016	\$ 29,371.33
2015	\$ 28,760.30
2014	\$ 27,591.10
2013	\$ 26,330.51
Total	\$ 343,321.70

FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO THE LEASE ("Amendment" hereinafter) is made this 5 day of ^{July} ~~July~~, 2015 between the **City of Lake Worth**, Florida, a municipal corporation ("Landlord" hereinafter), with its principal office located at 7 North Dixie Highway, Lake Worth, Florida 33460, and, **RTT-BENNY'S ON THE BEACH, INC.**, a corporation authorized to do business in the State of Florida, ("Tenant" hereinafter).

RECITALS

WHEREAS, on February 11, 2014, the Landlord entered a Lease with the Tenant for premises located on the City of Lake Worth Municipal Pier for use by the Tenant as a restaurant with incidental retail sales and a bait shop (the "Lease" hereinafter);

WHEREAS, the Tenant approached the Landlord about using an extra 400 square feet of space adjacent to and west of the Lease premises for additional food and beverage services ("Patio Area" hereinafter);

WHEREAS, the Landlord and Tenant have negotiated a price of \$15 per square foot as the annual payment to the Landlord for the Patio Area, which is to be made in monthly installments of \$500 per month to the Landlord;

WHEREAS, the Tenant has been using the Patio Area since March 1, 2015 and agrees to pay the Landlord \$2000 in recognition of such use through July 1, 2015;

WHEREAS, the Landlord and Tenant desire to amend the Lease to provide terms and conditions for the Tenant's use of the Patio Area.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the Landlord and Tenant agree to amend the Lease as follows:

1: INCORPORATION OF RECITALS. The foregoing Recitals are incorporated into this Amendment as true and correct statements.

2: AMENDMENT TO LEASE. A new paragraph 4.5 is added to the Lease as follows:

4.5 PATIO. So long as the federal, state, and local laws, codes, zoning restrictions, ordinances, regulations, and safety requirements permit, Landlord agrees that Tenant shall have a revocable license to use the area adjacent to and immediately outside of the Premises, as described on Exhibit "A" attached hereto and incorporated herein ("Patio Area" hereinafter); provided that, Tenant complies at all times with the following license requirements for the Patio Area:

- 4.5.1 Tenant's use of the Patio Area shall comply with all laws, codes, zoning restrictions, ordinances, regulations, safety requirements, approvals, permits and licenses relating thereto.
- 4.5.2 Tenant shall obtain at its sole cost and expense all necessary approvals, permits, and licenses in connection with use of the Patio Area (with copies furnished to Landlord) and keep the same in full force and effect during Tenant's use of the Patio Area; provided that, Tenant's failure to obtain such approvals, permits and licenses shall not be deemed to be a contingency of the effectiveness of the Lease or entitle Tenant to terminate the Lease.
- 4.5.3 Tenant shall install, at its sole cost and expense, all furniture and equipment (collectively, "Furniture") it deems desirable for its use in the Patio Area and Tenant shall be solely responsible for any destruction, damage, theft, or vandalism of, or to, the Furniture. If at any time the Furniture is damaged or is in need of repair or replacement, Tenant shall promptly repair or replace the same and maintain all Furniture to present a clean and functioning appearance.
- 4.5.4 Tenant hereby covenants and agrees that it shall not: (i) restrict access to the Premises or pedestrian flow through the areas outside the Patio Area; (ii) erect or place any canopy or other enclosure or covering on the Patio Area without Landlord's prior written approval; (iii) permit any music or other similar sounds to be played in the Patio Area without Landlord's prior written approval; or (iv) permit loitering in the Patio Area by persons who are not customers of Tenant.
- 4.5.5 Tenant shall clean and keep in good repair the Patio Area and shall remove all trash generated therefrom on a daily basis or more frequently as needed. If Tenant fails to clean or keep the Patio Area in good repair, or remove trash therefrom as required by this section, then in addition to and not in lieu of any other remedy to which Landlord may be entitled, Landlord shall have the right but not the obligation, upon 24 hours' prior written notice to Tenant, to clean and/or repair the Patio Area, or remove the trash on Tenant's behalf; and Tenant shall pay Landlord 125 percent of Landlord's cleaning, repair, or trash removal costs (including any overtime costs) immediately upon Landlord's demand therefore.
- 4.5.6 Tenant shall reimburse Landlord immediately upon Landlord's demand therefore, the cost of repairs or restoration of the common areas arising out of Tenant's use of the Patio Area or acts or

negligence of Tenant, its customers, employees, agents, contractors, invitees, or licensees.

- 4.5.7 Tenant agrees to pay the Landlord \$15.00 per square foot per annum for use of the Patio Area which shall be added to the Lease Rent and subject to all escalation clauses contained in this Lease document including lease renewal options ("Patio Area Rent"). The Tenant's payment of the Patio Area Rent shall be made in equal monthly installments (initially at the rate of \$500 per month) commencing July 1, 2015. The Patio Area Rent shall be paid at the same time and in the same manner as the Tenant's Rent is paid under the Lease. If Tenant terminates its use of the Patio Area or the City revokes the license to use the Patio Area, the Patio Area Rent will be terminated as of the effective date of said termination or revocation (with the amount prorated on a daily basis). Tenant shall also pay any and all taxes and assessments related to or arising out of Tenant's use of the Patio Area.
- 4.5.8 Tenant will cooperate with the Landlord and reasonably accommodate the Landlord's request to conduct special events in the Patio Area; provided that, the Landlord will use the food and beverage services of the Tenant for such special events.
- 4.5.9 Tenant's right granted herein to use the Patio Area is neither transferable nor assignable independently from its leasehold interest.
- 4.5.10 Landlord shall have no liability to Tenant if it is unable to use the Patio Area for any reason; provided that if Tenant is unable to use the Patio Area due to Landlord's negligence or wrongful acts or the failure of any governmental agency to issue required licenses or permits necessary to use the Patio Area as provided for in this Lease Amendment, the Patio Area Rent shall be abated for that period of time that Tenant is unable to use the Patio Area. Tenant must notify Landlord within five (5) business days of being unable to use the Patio Area, or the Tenant waives the right to have the Patio Area Rent abated.
- 4.5.11 Landlord shall be entitled, for reasonable cause, to revoke Tenant's license to use the Patio Area, upon 30 days' prior written notice to Tenant ("Revocation Notice") setting forth the reason for the revocation ("Defect") and providing Tenant with the right to cure the Defect within thirty (30) days of its receipt of the Revocation Notice ("Cure Period"). In the event Tenant has not cured the Defect within the Cure Period, or if the Defect is such that it cannot be reasonably cured within the Cure Period, if Tenant has not commenced the correction of the Defect within the Cure Period and diligently pursued its resolution, then in that event Landlord may remove Tenant therefrom; and, prior to the revocation

of such license, Tenant, at its sole cost and expense, shall remove its Furniture from the Patio Area and restore the Patio Area to its condition prior to Tenant's use thereof, ordinary wear and tear excepted. If Tenant fails to do so, then Landlord may remove Tenant's Furniture and restore the Patio Area, and Tenant shall pay the cost of such removal and restoration to Landlord, upon demand. Notwithstanding anything to the contrary in this Lease, Landlord, in its sole and absolute discretion, shall be entitled to revoke Tenant's license to use the Patio Area upon 180 days' prior written notice to Tenant.

- 4.5.12 Tenant shall be entitled, in its sole and absolute discretion, to terminate its use of the Patio Area, upon 30 days' prior written notice to Landlord; and, prior to the termination of such use, Tenant, at its sole cost and expense, shall remove its Furniture from the Patio Area and restore the Patio Area to its condition prior to Tenant's use thereof, ordinary wear and tear excepted. If Tenant fails to do so, then Landlord may remove Tenant's Furniture and restore the Patio Area, and Tenant shall pay the cost of such removal and restoration to Landlord, upon demand.
- 4.5.13 Should Landlord require the use of any portion of the Patio Area in connection with special events at the Premises or Beach; operation or maintenance of the Premises or Beach; or, for any other purpose or use, Tenant shall remove its Furniture and other personal property from the Patio Area for such periods of time as Landlord shall designate in order to accommodate such uses. Such Landlord use shall be limited to no more than five (5) times per calendar year.
- 4.5.14 To the fullest extent permitted by laws, Tenant shall indemnify, defend, save and hold harmless, Landlord, its officers, agents and employees from any and all claims, damages, losses, liabilities and expenses, pertaining to or arising out of the City's License of the Patio Area to Tenant and/or Tenant's use of the Patio Area by the Tenant, any of its contractors, agents, officers, employees, invitees or guests. Tenant shall pay all losses, claims, liens, settlements, or judgments of any nature whatsoever in connection with the foregoing indemnification, including but not limited to, reasonable attorney's fees (including at all levels of trial and appeals). All costs and attorney's fees associated with any such defense shall be the responsibility of the Tenant. Nothing contained herein is intended nor shall it be construed to waive the Landlord's rights and immunities under the common law or Florida Statute 768.28, as amended from time to time.

The Tenant's obligation to defend the Landlord in the defense and trial of any claim and related settlement negotiations, shall be triggered by the Landlord's notice of claim to Tenant. Tenant's inability to evaluate liability or its evaluation of liability, shall not excuse the Tenant's duty to defend within 7 days after such notice is given by the Landlord. Only an adjudication or judgment after the highest appeal is exhausted, specifically finding the Landlord solely negligent, shall excuse performance of this provision by Tenant and Tenant shall pay all costs and attorney's fees related to this obligation and its enforcement by the Landlord. The Landlord's failure to notify the Tenant of a claim shall not release the Tenant from the above duty to indemnify.

- 4.5.15 The parties hereto agree that the Landlord's right to terminate the license to use the Patio Area as stated herein is absolute and shall not result in any inequity to Tenant because of any Furniture purchased and used in the Patio Area or any authorized improvements by Tenant to the Patio Area. Accordingly, the license to use the Patio Area shall not be construed as an irrevocable license or a license coupled with an interest because of said Furniture or improvements.
- 4.5.16 The Tenant acknowledges that the Landlord and the public will be irreparably damaged if the terms and conditions of the license to use the Patio Area are not adhered to and specifically enforced. Therefore, in the event of a violation or threatened violation by the Tenant of the terms and conditions stated herein for the Patio Area, then the Landlord shall be entitled to all the rights and remedies, including but not limited to injunctive relief, restraining such violation without being required to show any actual damage, irreparable harm, or to post any bond or other security.
- 4.5.17 Nothing contained herein, whether express or implied, is intended to confer any rights or remedies under or by reason of this license on any persons other than the parties hereto and their respective administrators and legal representatives, nor is anything in this license intended to relieve or discharge the obligation or liability of any third person to any party to this license nor shall any provision give any third persons any right of subrogation or action over or against any party to this license.
- 4.5.18 Tenant shall ensure that all Furniture (in whole or in part) remains inside the Patio Area. Failure to keep all Furniture inside the Patio Area may result in the City immediately requiring Tenant to remove the Furniture; define the Patio Area with paint and/or other border; and/or, revoke Tenant's license to use the Patio Area.

4.5.19 Tenant shall extend its Commercial General Liability insurance (as required under the Lease) to the Patio Area and maintain the same at all times while the Tenant uses the Patio Area. Tenant shall provide proof of the extended insurance to the Landlord upon the execution of this Amendment.

4.5.20 For purposes of the rights and obligations of the parties under the Lease, the Patio Area shall be considered part of the Premises; however the provisions herein related to the license to use the Patio Area shall supersede any conflict provisions in the Lease regarding the Premises.

3: PAYMENT OF EARLIER PATIO AREA RENT. The Tenant agrees to pay the Landlord \$2,000 upon the execution of this Amendment as Patio Area Rent for the Tenant's use of the Patio Area from March 1, 2015 to June 30, 2015.

4: ENTIRETY OF AGREEMENT. The Landlord and Tenant agree that the Lease including this Amendment set forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. Except as may be provided for in the Lease, none of the provisions, terms and conditions contained in the Lease including this Amendment may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

5: LEGAL EFFECT. This Amendment shall not become binding and effective until approved by the City Commission.

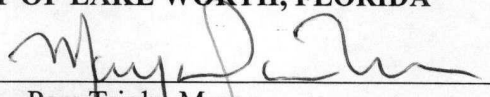
6: COUNTERPARTS. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Amendment.

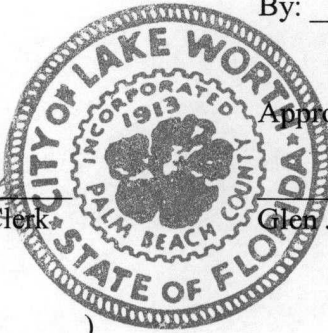
7: AMENDMENT. Except as stated herein, all other terms and conditions of the Lease shall remain in full force and effect.

(SIGNATURE PAGES FOLLOW)

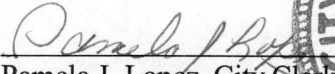
IN WITNESS WHEREOF the parties hereto have made and executed this First Amendment to the Lease on the day and year first above written.

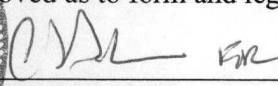
CITY OF LAKE WORTH, FLORIDA

By: 
Pam Triolo, Mayor



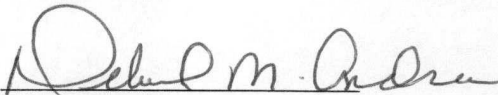
ATTEST:


Pamela J. Lopez, City Clerk

Approved as to form and legal sufficiency:

Glen J. Torcivia, City Attorney

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

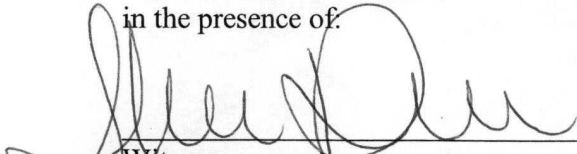
The foregoing instrument was acknowledged before me this 5th day of July, 2015, by Pam Triolo, Mayor, and Pam Lopez, City Clerk, on behalf of the City of Lake Worth, and who are personally known to me.


NOTARY PUBLIC

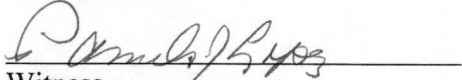


(SIGNATURE PAGE FOLLOWS)

Signed, sealed and delivered
in the presence of.

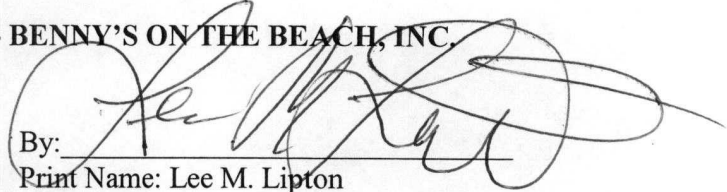


Witness
Shanovia Denwiddie
(print name of witness)



Witness
Pamela J. Lopez
(print name of witness)

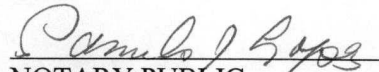
RTT- BENNY'S ON THE BEACH, INC.

By: 

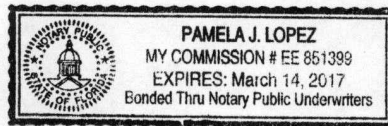
Print Name: Lee M. Lipton
Title: President

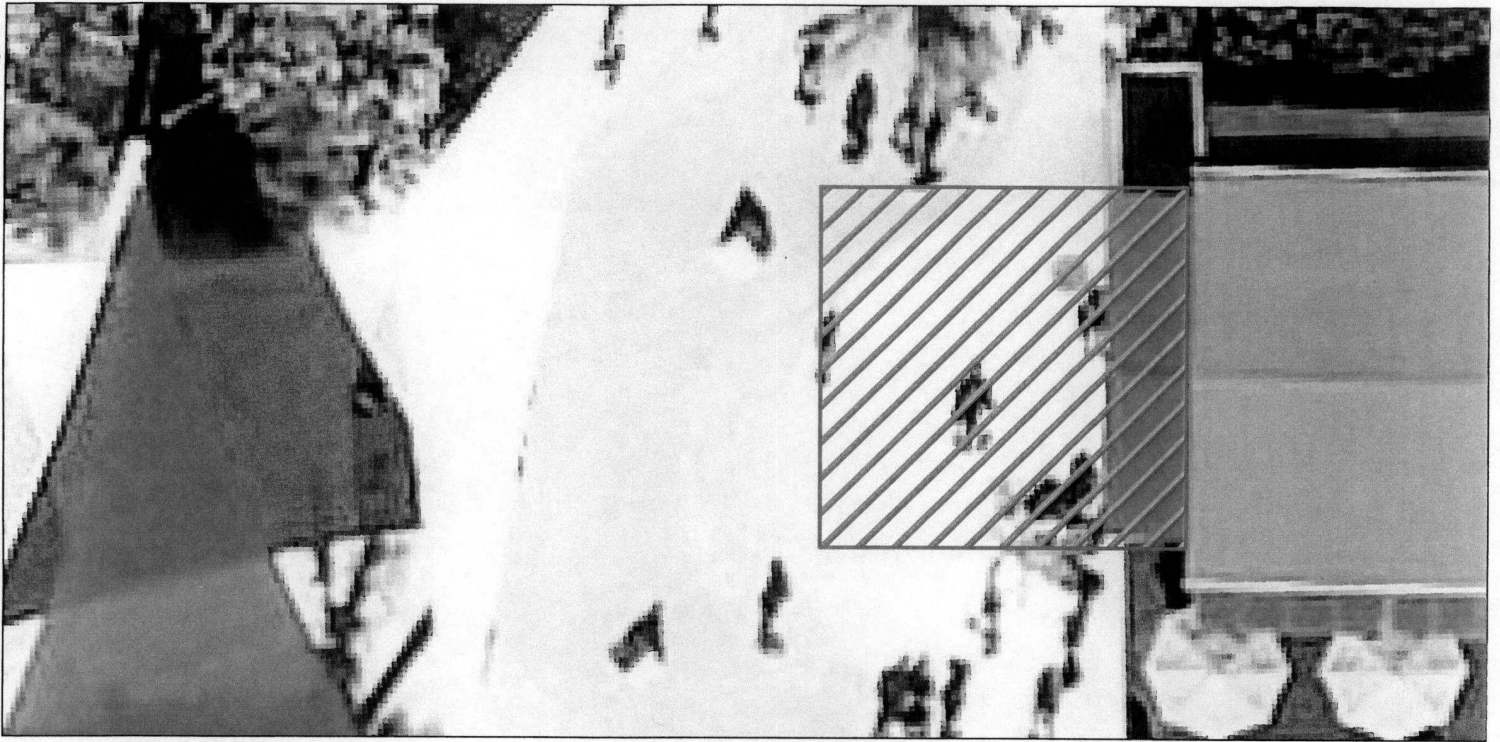
STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 23 day of July, 2015, by Lee M. Lipton, as President of **RTT- BENNY'S ON THE BEACH, INC.**, a Florida corporation, on behalf of said company, who () is personally known to me or () produced _____ as identification.



NOTARY PUBLIC





Benny's Patio Area 20' x 20'



Exhibit A

PREPARED BY
MICHAEL ELEVINS
THE CITY OF LAKE WORTH
COMMUNITY SUSTAINABILITY
DEPARTMENT
1960 S.W. 47th St.
LAKE WORTH, FL 33461
305.946.5100
Updated 01.26.2010

LEASE

THIS LEASE (the "Lease") is made and entered into as of the Commencement Date of this Lease, by and between Landlord and Tenant

WITNESSETH:

Subject to and on the terms and conditions of this Lease, Landlord leases to Tenant and Tenant leases from Landlord the Premises.

1. BASIC LEASE INFORMATION AND DEFINED TERMS. The key business terms of this Lease and the defined terms used in this Lease are as follows:

1.1 Landlord. CITY OF LAKE WORTH, a municipal corporation under the laws of the State of Florida.

1.2 Tenant. RTT-BENNY'S ON THE BEACH, INC., a Florida corporation.

1.3 Tenant's Trade Name. Benny's on the Beach.

1.4 Premises. The Premises is more particularly described as the following which are located on the Pier: Concession building (less the transformer room which is maintained and controlled by the Landlord); restroom; interior dining room; roof top deck; adjacent patio area; west end deck area; takeout service area; and, kitchen/preparation areas.

1.5 Pier. The Pier shall refer to the Lake Worth Municipal Ocean Pier owned by the Landlord, located in the County of Palm Beach, State of Florida, and excludes the Premises for purposes of this Lease. This Lease shall provide solely for the Management of the Pier by the Tenant, but shall not provide for the Tenant to acquire a leasehold interest in the Pier. Management of the Pier is as set forth in Section 15 of this Lease.

1.6 Permitted Use of the Premises. The Premises shall only be used for the following permitted uses: restaurant, incidental retail sales, and bait shop as further detailed in Article 4 of this Lease regarding use of the Premises.

1.7 Commencement Date. The Commencement Date shall be the date this Lease is approved by the City Commission.

1.8 Lease Term. The Lease Term shall be a term commencing on the Commencement Date and continuing for one hundred twenty (120) full calendar months (plus any partial calendar month in which the Commencement Date falls), as extended or sooner terminated under the terms of this Lease. If the Commencement Date falls on a day other than the first day of a month, the first month of the Lease Term shall commence on the first day of the calendar month immediately following the Commencement Date and the pro rata portion of the Rent shall be paid by Tenant for the partial month.

1.9 Rent. The Tenant shall pay twenty thousand dollars and no/100 (\$20,000.00) per month, plus applicable taxes, for the Premises, as more fully set forth herein. Tenant is an existing long term tenant of the Landlord at the current location pursuant to a Lease under which no security deposit is required. No security deposit shall be required under this Lease.

1.10 Tenant's Notice Address. 10 South Ocean Boulevard, Lake Worth, FL 33460 with a copy to The Young Law Firm at P.O. Box 2192, West Palm Beach, FL 33402 or to other such address as the Tenant shall notify the Landlord in writing.

1.11 Landlord's Notice Address. c/o City Manager, City of Lake Worth, 7 North Dixie Highway, Lake Worth, Florida 33460.

1.12 Landlord's Broker. N/A.

1.13 Tenant's Broker. N/A.

1.14 Business Days. All days other than Saturdays, Sundays, or Legal Holidays observed by the Landlord in the conduct of its business.

2. TERM. Tenant shall have and hold the Premises for the Lease Term. Tenant shall observe and perform all of its obligations under this Lease from the Commencement Date.

3. OPTION TO EXTEND LEASE. Provided that Tenant is not currently in default of the Lease, Tenant shall have the following options to extend the Lease Term: a) one initial eight (8) year option to extend the Lease Term (“Initial Extension”), and b) after exercising the Initial Extension, a second, twenty-three (23) month option to extend the Lease Term (“Second Extension”). All options to extend the Lease Term shall be effective provided that Tenant shall provide written notice to Landlord of its election to extend the Lease Term at least six (6), but not more than eighteen (18) months, prior to the expiration of the Initial or Second Extension of the Lease Term, with time being of the essence as to this notification period. Landlord shall have no obligation to notify Tenant hereafter of the required notification date to extend the Lease Term and Tenant shall be deemed to have waived its extension option(s) in the event Tenant fails to notify Landlord in writing by the required notification date. All terms and conditions of the Lease shall remain unchanged and in full force and effect upon Tenant’s extension of the Lease Term; however, Rent for both the Initial and Second Extension of the Lease Term shall be negotiated and agreed to in writing by the parties prior to the commencement of the Initial Extension. The Rent negotiated for the Initial Extension shall also be the Rent amount for the Second Extension. The Rent demanded by Landlord for the Initial Extension shall not exceed an amount consistent with the rent for similar restaurant operations in similar locations located in Florida but shall take into consideration that the Rent will remain in effect for both the Initial and Second Extensions of the Lease Term.

4. USE.

4.1 Permitted Use - Restaurant. Tenant shall continuously use and occupy the Premises only for the use of the restaurant and incidental retail sales (“Permitted Use”), in keeping with the historical standards of quality, respect, decorum, integrity, finesse, and stability. Tenant shall not use or permit or suffer the use of the Premises for any other business or purpose. Tenant shall conduct its business in the Premises solely under Tenant’s Trade Name, Benny’s on the Beach. The provisions of this article are in the nature of restrictive covenants running with the land. Tenant shall warehouse, store, and stock in the Premises only goods, wares, and merchandise that Tenant intends to offer for sale at, in, from, or upon the Premises.

4.2 No Offensive or Illegal Use. No use of the Premises during the Lease Term or extension thereof shall be offensive to the public by reason of odor, fumes, noise, or traffic; no illegal activity shall be conducted on the Premises by Tenant or by anyone claiming the right to use the Premises by or through Tenant; and no activities on the Premises shall be permitted by Tenant, or by anyone claiming the right to use the Premises by or through Tenant, which are, in the sole discretion of Landlord, immoral or lewd or capable of subjecting the Premises to an unfavorable reputation or reducing the sale or rental value of the Premises.

4.3 Conduct of Business. Throughout the Lease Term, Tenant shall actively conduct its restaurant business upon at least the Minimum Business Hours of 10:00am to 5:00pm, Monday through Saturday, and 12:00pm to 5:00pm on Sunday. Tenant shall be permitted to conduct its restaurant business during the same hours as the Pier operations. The Tenant shall be permitted to operate under a full liquor license within the Premises so long as it has the applicable state license. Interruption of Tenant’s business because of any act of war, strike, fire, the elements, governmental action, or other cause beyond the reasonable control of the Tenant shall not constitute a default under this article, but no interruption of business shall affect the Tenant’s responsibility to pay any form of rent due under this Lease except as specifically provided in section 15.6 regarding closure of the Pier. Tenant shall keep the Premises fully staffed with experienced personnel.

4.4 RENT. Tenant shall pay Rent (which includes applicable taxes) to Landlord in lawful United States currency. All Rent shall be payable in monthly installments, in advance, beginning on the Commencement Date, and continuing on the first day of each and every calendar month thereafter during the Lease Term and any extension thereof. Unless otherwise expressly provided, all monetary obligations of Tenant to Landlord under this Lease, of any type or nature, other than Rent, shall be denominated as Additional Rent. Except as otherwise provided, Additional Rent payments are due ten days after delivery of an invoice. Tenant shall pay monthly to Landlord any sales, use, or other tax (excluding state and federal income tax) now or hereafter imposed on any Rent due under this Lease. All Rent shall be paid to Landlord without demand, setoff, or deduction whatsoever, except as specifically provided in this Lease, at Landlord’s Notice Address, or at such other place as Landlord shall designate in writing to Tenant. Tenant’s obligations to pay Rent are covenants independent of the Landlord’s obligations under this Lease. Tenant shall also be responsible for Real Estate Taxes apportioned to the Premises. The term “**Real Estate Taxes**” shall mean the

total of all taxes, assessments, and other charges by any governmental or quasi-governmental authority, including real and personal property taxes, transit and other special district taxes, franchise taxes, and solid waste assessments that are assessed, levied, or in any manner imposed on the Premises. Real Estate Taxes are paid annually.

5. ASSIGNMENT OR SUBLETTING.

5.1 General. Tenant may not transfer any of its rights under this Lease, voluntarily or involuntarily, whether by merger, consolidation, dissolution or operation of law, without Landlord's prior written consent which shall not be unreasonably withheld. Tenant may not sublease, assign, mortgage or encumber the property. Any transfer by Tenant in violation of this article shall, at Landlord's option, be void. Tenant shall submit in writing to Landlord, not later than 30 days before any anticipated transfer, (a) the name and address of the proposed transferee, (b) a duly executed counterpart of the proposed transfer agreement, (c) reasonably satisfactory information as to the nature and character of the business of the proposed transferee, as to the nature and character of its proposed use of the space, and (d) banking, financial, or other credit information relating to the proposed transferee reasonably sufficient to enable Landlord to determine the financial responsibility and character of the proposed transferee.

5.2 Consent Criteria. Notwithstanding the foregoing, Landlord's consent to a transfer may be withheld in Landlord's sole and absolute discretion, to any party who: (a) does not have the financial wherewithal to discharge its obligations under the Lease, (b) if Lessee is in default under this Lease beyond applicable notice and cure periods, or (c) the transferee has been disbarred, suspended or rendered ineligible to enter into contracts with Landlord, County of Palm Beach, or any other municipal, state or federal entity. In the event Landlord withholds consent to any transfer contrary to the provisions of this article, Tenant's sole remedy will be to seek injunctive relief against or specific performance by Landlord.

6. INSURANCE.

6.1 Tenant's Insurance. Tenant shall obtain and keep in full force and effect the following insurance coverages:

6.1.1. Commercial general liability insurance, including contractual liability, on an occurrence basis, on the then most current Insurance Services Office ("ISO") form with combined single limits of \$1 million per occurrence / \$2 million aggregate; property insurance on the ISO causes of loss-special form, in an amount adequate to cover 100% of the replacement costs of all of Tenant's property at the Premises; and, fire legal liability in the amount of at least \$300,000 (which may be part of the GL policy).

6.1.2. Workers' compensation insurance; and,

6.1.3 Liquor liability insurance in the amount of \$1 million.

In addition, plate glass insurance with a deductible of not more than \$250 – is encouraged, but is not required. The commercial general liability insurance shall be primary and non-contributing to any insurance otherwise available to Landlord and shall not have any deductibles. Tenant shall comply with all requirements of the Board of Fire Underwriters of Florida any other similar body affecting the Premises and shall not use the Premises in a manner that shall increase the rate of fire insurance or other insurance of Landlord over that in effect during the year before the Commencement Date. Tenants insurance shall cover all property located within the Premises. The Landlord reserves the right to reasonably require additional insurance or modify the required insurance of the Tenant under the Lease. The City Manager or his or her designee is authorized to make such modification to the insurance requirements with such modification made by written notice to the Tenant.

6.2 Insurance Requirements. All Tenant's insurance policies shall be written with insurance companies and shall have coverage limits acceptable to Landlord and having a policyholder rating of at least "A-" and a financial size category of at least "Class XII" as rated in the most recent edition of "Best's Key Rating Guide" for insurance companies. The commercial general liability insurance policy shall name Landlord and Landlord's managing agent (if any) as additional insureds. All policies shall provide that they may not be terminated or modified in any way that would materially decrease the protection afforded Landlord under this Lease without 30 days' advance notice to Landlord. Tenant shall furnish evidence that it maintains all insurance coverages required under this Lease (ACORD 25 for Commercial General Liability and the 2003 edition of ACORD 28 for Property, with copies of declaration pages for each required policy). Coverage amounts for the commercial general liability insurance may be increased after commencement of the fifth full year of the Lease Term, if Landlord shall reasonably determine that an increase is necessary for adequate protection.

6.3 Waiver of Subrogation. Landlord and Tenant each expressly, knowingly, and voluntarily waive and release any claims that they may have against the other or the other's employees, agents, or contractors as a result of the acts or omissions of the other party or the other party's employees, agents, or contractors (specifically including the negligence of either party or its employees, agents, or contractors and the intentional misconduct of the employees, agents, or contractors of either party), to the extent any such claims are covered by the worker's compensation, employer's liability, property, rental income, business income, or extra expense insurance described in this Lease, or other property insurance that either party may carry at the time of an occurrence. Landlord and Tenant shall each, on or before the earlier of the Commencement Date or the date on which Tenant first enters the Premises for any purpose, obtain and keep in full force and effect at all times thereafter a waiver of subrogation from its insurer concerning the workers' compensation, employer's liability, property, rental income, and business interruption insurance maintained by it for the Premises and the property located in the Premises. This section shall control over any other provisions of the Lease in conflict with it and shall survive the expiration or sooner termination of this Lease.

7. DEFAULT.

7.1 Events of Default. Each of the following shall be an event of default under this Lease: (a) Tenant fails to make any payment of Rent or Additional Rent when due ("**Monetary Default**"); (b) Tenant fails to perform any other obligation under this Lease); (c) Tenant violates any requirement under the Use article of this Lease; (d) Tenant becomes bankrupt or insolvent or makes a general assignment for the benefit of creditors or takes the benefit of any insolvency act, or if any debtor proceedings be taken by or against Tenant or any Guarantor; surety; (e) a receiver or trustee in bankruptcy is appointed for the Tenant's property and the appointment is not vacated and set aside within 60 days from the date of the appointment; (f) Tenant rejects this Lease in any bankruptcy, insolvency, reorganization, or arrangement proceedings under the Bankruptcy Code or any State insolvency laws; (g) Tenant ceases to conduct business in the Premises for a period of 15 consecutive days, unless such cessation is authorized under other provisions of this Lease, or of court, or request of the Landlord; (h) Tenant, before the expiration of the Lease Term, and without the written consent of Landlord, vacates the Premises or abandons possession of the Premises; (i) the leasehold estate granted to Tenant by this Lease is taken on execution or other legal process; (j) Tenant transfers this Lease in violation of the Assignment or Subletting article; or (k) Tenant fails to deliver an estoppel certificate within the time period required by the Estoppel Certificates article of this Lease.

7.2 Remedies. If Tenant's default is other than a Monetary Default, Landlord shall deliver to Tenant a Notice of Default, providing that the Tenant shall have thirty (30) days to cure said default. If Tenant's default is a Monetary Default, Landlord shall deliver to Tenant a Notice of Default, providing that Tenant shall have ten (10) days to cure said default. If Tenant remains in material default after thirty (30) days have expired, or ten (10) days for a Monetary Default, in addition to all remedies provided by law, Landlord may declare the entire balance of all forms of Rent due under this Lease for the remainder of the Lease Term to be forthwith due and payable and may collect the then present value of the Rents (calculated using a discount rate equal to the discount rate of the branch of the Federal Reserve Bank closest to the Premises in effect as of the date of the default). In addition, Landlord may institute a distress for rent action and obtain a distress writ under Sections 83.11 through 83.19, Florida Statutes. If this Lease is rejected in any bankruptcy proceeding, Rent for the entire month in which the rejection occurs shall be due and payable in full and shall not be prorated. **TENANT EXPRESSLY, KNOWINGLY, AND VOLUNTARILY WAIVES (I) ALL CONSTITUTIONAL, STATUTORY, OR COMMON LAW BONDING REQUIREMENTS, INCLUDING THE REQUIREMENT UNDER SECTION 83.12, FLORIDA STATUTES, THAT LANDLORD FILE A BOND, IT BEING THE INTENTION OF THE PARTIES THAT NO BOND SHALL BE REQUIRED TO BE FILED BY LANDLORD IN ANY DISTRESS ACTION; AND (II) THE RIGHT UNDER SECTION 83.14, FLORIDA STATUTES, TO REPLEVY DISTRAINED PROPERTY.**

7.3 Landlord's Right to Perform. If Tenant defaults, Landlord may, but shall have no obligation to, perform the obligations of Tenant, and if Landlord, in doing so, makes any expenditures or incurs any obligation for the payment of money, including reasonable attorneys' fees, the sums so paid or obligations incurred shall be paid by Tenant to Landlord within five days of rendition of a bill or statement to Tenant therefor.

7.4 Late Charges, Interest, and Bad Checks. If any payment due Landlord shall not be paid within five days of the date when due, Tenant shall pay, in addition to the payment then due, an administrative charge equal to the greater of (a) 5% of the past due payments, or (b) \$250. All payments due Landlord shall bear interest at the lesser of: (a) 18% per annum, or (b) the highest rate of interest permitted to be charged by applicable law, accruing from the date the obligation arose through the date payment is actually received by Landlord. If any check given to Landlord for any payment is dishonored for any reason whatsoever not attributable to Landlord, in addition to all other remedies available to Landlord, upon demand, Tenant will reimburse Landlord for all insufficient funds, bank, or returned check fees, plus an administrative fee not to exceed the maximum amount prescribed by

Section 68.065, Florida Statutes. In addition, Landlord may require all future payments from Tenant to be made by cashier's check from a local bank or by Federal Reserve wire transfer to Landlord's account.

7.5 Limitations. None of Landlord's officers, employees, agents, directors, shareholders, partners, members, managers, or affiliates shall ever have any personal liability to Tenant. No person holding Landlord's interest shall have any liability after such person ceases to hold such interest, except for any liability accruing while such person held such interest. No act or omission of Landlord or its agents shall constitute an actual or constructive eviction of Tenant or a default by Landlord as to any of its obligations under this Lease unless Landlord shall have first received written notice from Tenant of the claimed default and shall have failed to cure it after having been afforded reasonable time in which to do so, which in no event shall be less than 30 days. Further, Tenant waives any claims against Landlord that Tenant does not make in writing within 30 days of the onset of the cause of such claim. Landlord and Tenant each waive all rights (other than Article 24, End of Term) to consequential damages, lost profits, punitive damages, or special damages of any kind.

7.6 Security Interest. Tenant hereby grants to Landlord a lien and security interest on all property of Tenant now or hereafter placed in or upon the Premises including, but not limited to, all fixtures, furniture, inventory, machinery, equipment, merchandise, furnishings and other articles of personal property, and all proceeds of the sale or other disposition of such property (collectively, the "Collateral") to secure the payment of all Rent or Additional Rent to be paid by Tenant pursuant to this Lease. Such lien and security interest shall be in addition to any landlord's lien provided by law. This Lease shall constitute a security agreement under the Uniform Commercial Code, so that Landlord shall have and may enforce a security interest in the Collateral. Tenant authorizes Landlord to file a financing statement or statements and any further documents as Landlord may now or hereafter reasonably require to protect such security interest under such Code. Landlord, as secured party, shall be entitled to all rights and remedies afforded a secured party under such Code, which rights and remedies shall be in addition to Landlord's liens and rights provided by law or by the other terms and provisions of this Lease.

8. ALTERATIONS. "Alterations" shall mean any alteration, addition, or improvement in or on or to the Premises of any kind or nature, including any improvements made prior to Tenant's occupancy of the Premises. Tenant shall make no Alterations which affect utility services or plumbing and electrical lines or fire suppression or other systems of the Premises that are exterior to the Premises without the prior written consent of Landlord, which consent may be withheld in Landlord's sole discretion ("Material Alterations"). Tenant may make non-Material Alterations with Landlord's prior consent which consent shall not be unreasonably withheld. All Alterations shall be performed in accordance with Landlord's Tenant Alterations Rules and Requirements attached to this Lease as Exhibit "B" and incorporated herein. Before alterations commence, the general contractor shall obtain a payment and performance bond in form complying with Section 713.23, Florida Statutes, as amended from time to time. In addition, a copy of the bond, the contractor's license(s) to do business in the jurisdiction(s) in which the Premises are located, the fully executed contract between Tenant and the general contractor, the general contractor's work schedule, list of all subcontractors, and all building or other governmental permits required for the Alterations shall be delivered to Landlord before commencement of the Alterations. Except as expressly set forth in this Lease, Landlord has made no representation or promise as to the condition of the Premises, Landlord shall not perform any alterations, additions, or improvements in order to make the Premises suitable and ready for occupancy and use by Tenant, and Tenant shall accept possession of the Premises in its then "as-is", "where-is" condition, without representation or warranty of any kind by Landlord. Except for work to be performed by Landlord, before any Alterations are undertaken by or on behalf of Tenant, Tenant shall require any contractor performing work on the Premises to obtain and maintain, at no expense to Landlord, workers' compensation insurance as required by law, builder's risk insurance in the amount of the replacement cost of the applicable Alterations (or such other amount reasonably required by Landlord), and commercial general liability insurance written on an occurrence basis with minimum limits of \$2 million per occurrence limit, \$2 million general aggregate limit, \$2 million personal and advertising limit, and \$2 million products/completed operations limit; which coverage limits may be effected with umbrella coverage (including contractual liability, broad form property damage and contractor's protective liability coverage).

9. LIENS. The interest of Landlord in the Premises shall not be subject in any way to any liens, including construction liens, for Alterations made by or on behalf of Tenant. This exculpation is made with express reference to Section 713.10, Florida Statutes. Tenant represents to Landlord that that any improvements that might be made by Tenant to the Premises are not required to be made under the terms of this Lease and that any improvements which may be made by Tenant do not constitute the "pith of the Lease" under applicable Florida case law. If any lien is filed against the Premises for work or materials claimed to have been furnished to Tenant, Tenant shall cause it to be discharged of record or properly transferred to a bond under Section 713.24, Florida Statutes, within ten days after notice to Tenant. Further, Tenant shall indemnify, defend, and save Landlord harmless from and against any damage or loss, including reasonable attorneys' fees, incurred by Landlord as a result of any liens or other claims

arising out of or related to work performed in the Premises by or on behalf of Tenant. Tenant shall notify every contractor making improvements to the Premises that the interest of the Landlord in the Premises shall not be subject to liens.

10. ACCESS TO PREMISES. Landlord and persons authorized by Landlord shall have the right, at all reasonable times, to enter and inspect the Premises, to make repairs and alterations Landlord deems necessary, and in the last nine months of the Lease Term to exhibit the Premises to prospective tenants, with reasonable prior notice, except in cases of emergency. Landlord shall provide Tenant with twenty four (24) hours' notice of its intent to enter and inspect unless except in the case of emergency, in which event no notice shall be required.

11. COMMON AREAS. The "Common Areas" shall be those areas used by all tenants of the Landlord upon the public property at the Lake Worth Beach ("Project"). The Common Areas shall include such areas and facilities as delivery facilities, walkways, landscaped and planted areas, and parking facilities and are those areas designated by Landlord for the general use in common of occupants of the Project, including Tenant. Landlord shall provide Common Area restrooms and supplies. The Common Areas shall at all times be subject to the exclusive control and management of Landlord. Landlord may grant third parties specific rights concerning portions of the Common Areas. Landlord may increase, reduce, improve, or otherwise alter the Common Areas, otherwise make improvements, alterations, or additions to the Project, and change the name or number by which the Project is known. Landlord may also temporarily close the Common Areas to make repairs or improvements. In addition, Landlord may temporarily close the Common Areas and preclude access to the Premises in the event of casualty, governmental requirements, the threat of an emergency such as a hurricane or other act of God, for pest extermination, or if Landlord otherwise reasonably deems it necessary in order to prevent damage or injury to person or property. Landlord reserves the right, from time to time, to utilize portions of the Common Areas for entertainment, carnival type shows, rides, outdoor shows, displays, automobile and other product shows, the leasing of kiosks, or other uses that in Landlord's judgment tend to attract the public. Further, the Landlord reserves the right to utilize the lighting standards and other areas of the parking areas for advertising purposes and holiday decorations. This Lease does not create, nor will Tenant have any express or implied easement for, or other rights to, air, light, or view over, from, or about the Project.

12. CASUALTY DAMAGE. If the Premises and/or the Pier are damaged by acts beyond the control of the Tenant and Landlord, the Landlord shall restore, repair and/or reconstruct the Premises and/or the Pier if sufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or Pier to substantially the same condition they were in immediately before the happening of the damage but only to the extent of Landlord's obligations as set forth in Article 14 herein on the Commencement Date for the Premises. If insufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or the Pier, the Landlord may budget and appropriate funds to reconstruct, restore or repair the Premises and/or the Pier to substantially the same condition they were in immediately before the happening of the casualty but only to the extent of Landlord's obligations as set forth in Article 14 herein on the Commencement Date for the Premises. If the Landlord, in its sole discretion, declines to budget and appropriate funds to reconstruct, restore or repair the Premises and/or the Pier or if insufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or the Pier, the Landlord may, within 90 days after the damage, give notice to Tenant of Landlord's election to terminate this Lease, and the balance of the Lease Term shall automatically expire on the tenth day after the notice is delivered. If Landlord terminates the Lease under this Article 12 and thereafter reconstructs, restores or repairs the Premises within five (5) years of the damage to substantially the same condition or a better condition that they were in immediately before the happening of the damage and the total term of this Lease (including all extension options) has not expired, this Lease shall be reestablished at Tenant's written request for the balance of the term of this Lease (including all extension options) plus an extension of the term for the time it took to reconstruct, restore or repair the Premises up to an additional five (5) years. The Tenant's written request to reestablish this Lease must be received by the Landlord no later than ninety (90) days after substantial completion of the reconstruction, restoration or repairs of the Premises. "Net insurance proceeds" as used herein means that amount of funds delivered to the Landlord under any of its insurance policies (if any) for casualty damage to the Premises and/or the Pier after payment of all applicable deductibles and other related fees and charges. In determining whether sufficient net insurance proceeds are received by the Landlord to reconstruct, restore or repair the Premises and/or Pier, the cost, if any, to comply with newer building codes and regulations shall be included.

13. CONDEMNATION. If the whole or any substantial part of the Premises shall be condemned by eminent domain or acquired by private purchase in lieu of condemnation, this Lease shall terminate on the date on which possession of the Premises is delivered to the condemning authority and Rent shall be apportioned and paid to that date. If no portion of the Premises is taken but a substantial portion of the Project is taken, at Landlord's option, this Lease shall terminate on the date on which possession of such portion of the Project is delivered to the condemning authority and Rent shall be apportioned and paid to that date. Tenant shall have no claim against Landlord for the value of any unexpired portion of the Lease Term, nor shall Tenant be entitled to any part of the condemnation award or private purchase price. Notwithstanding the foregoing, if the condemning authority is the Landlord or any agency acting on behalf of Landlord, the Tenant shall be entitled to business damages for the remainder of the Lease.

14. REPAIR, MAINTENANCE AND OPERATIONS.

14.1 Landlord's Obligations. The Landlord shall repair and maintain in good order and condition, ordinary wear and tear excepted, only the roof, the outside walls (excluding storefronts), the structural portions of the Premises (exclusive of structural elements constructed by Tenant), and the portions of the electrical and plumbing systems servicing the Premises which are located outside the exterior boundaries of the building located on the Premises. However, unless the Waiver of Subrogation section of this Lease applies, Tenant shall pay the cost of any such repairs or maintenance resulting from acts or omissions of Tenant, its employees, agents, or contractors. Tenant waives the provisions of any law, or any right Tenant may have under common law, permitting Tenant to make repairs at Landlord's expense or to withhold Rent or terminate this Lease based on any alleged failure of Landlord to make repairs.

14.2 Tenant's Obligations. Except to the extent Landlord is obligated to repair and maintain the Premises as provided in the Landlord's Obligations section of this article, Tenant shall, at its sole cost, repair, replace, and maintain the Premises (including the walls, storefronts, ceilings, and floors in the Premises and electrical, plumbing (including grease traps), mechanical, fire protection, life safety, sprinklers, and HVAC systems servicing the Premises exclusively), in a clean, attractive, first-class condition. All replacements shall be of equal quality and class to the original items replaced. Tenant shall not commit or allow to be committed any waste on any portion of the Premises. Tenant shall enter into and maintain an annual maintenance contract with an air conditioning service firm.

14.3 Replacement of Improvements. At any time during the Lease Term after the tenth anniversary of the Commencement Date, and thereafter at any time after the tenth anniversary of the completion of any replacements of improvements under this section, if Landlord determines, in Landlord's sole reasonable discretion, that any leasehold improvements made to the Premises by Landlord or Tenant, as a result of wear, normal depreciation, or any other cause are of a quality which in Landlord's reasonable judgment is not consistent with the level of quality of, or generally prevailing within, the Project, Tenant will cause those improvements to be replaced. Any such worn or depreciated improvements will be replaced with materials and workmanship of a quality at least equal to the original installation for which replacement is made.

14.4 Food Services. If Tenant's operations include the services and/or preparation of food and/or beverages, Tenant shall comply with all Health Department and other governmental rules and regulations applicable to Tenant's operations in the Premises and shall promptly (a) furnish or cause to be furnished to Landlord copies of all Health Department and other governmental reports, notices, and citations issued with respect to the Premises, and (b) immediately cure or otherwise eliminate all deficiencies and violations noted by the Health Department and other governmental authorities. Tenant shall sanitize the dumpster designated for its use by Landlord and the area surrounding the dumpster on a regular basis, but no less than once a week. If Tenant does not properly dispose of its refuse, Landlord may have the area cleaned and Tenant shall pay all cleaning charges incurred by Landlord, plus an administrative fee equal to the greater of \$50.00 or 20% of the cleaning charges.

14.5 Grease Traps. Tenant shall install, maintain, repair, and replace all grease traps and other equipment necessary to maintain the restaurant in a clean and sanitary manner and free from insects, rodents, vermin, and other pests. No discharge of grease or grease laden water or other materials or food stuffs shall be introduced by Tenant into the waste water disposal or drainage systems serving the Project, Premises or Pier, but if a discharge should occur, in addition to all other rights and remedies under this Lease, Tenant shall be responsible for all costs and expenses (including any fines or penalties imposed by governmental authorities) which Landlord may incur.

14.6 Exhaust Equipment. Tenant shall maintain all exhausts, filtering or other devices (the "Exhaust Equipment") so as to prevent odors from emanating from the Premises. Tenant shall continuously operate the Exhaust Equipment during all hours of operation of Tenant's business in the Premises, and shall maintain and repair (or if necessary, replace) the Exhaust Equipment in good working order at all times at Tenant's sole cost. In the event Landlord notifies Tenant in writing that odors are emanating from the Premises, Tenant shall, within three days after notice from Landlord, commence in good faith to install such other reasonable control devices or procedures, at Tenant's cost and expense, as is reasonably required to eliminate such odors within a reasonable time, not to exceed seven days. If Tenant fails to take such action, Landlord may, at its sole discretion (i) cure such failure at Tenant's cost and expense, or (ii) treat such failure to eliminate such odors as a default under this Lease.

14.7 Dumpster. Tenant shall provide a dumpster and make arrangements for daily pick up. Tenant shall keep the dumpster area and other equipment washing and cleaning area in a clean and sanitary condition.

15. PIER.

15.1 Hours: The Tenant shall be permitted to conduct its Pier operations every day from 6:00am to 12:00am (November 1st – April 30th); and every day from 6:00am to 10pm during turtle season (from May 1st – October 31st), unless more further restricted by the Sea Turtle Protection and Sand Preservation regulations in the Palm Beach County ULDC. The hours may also be restricted by the Pier Master as set forth in subsection 15.3 below.

15.2 Maintenance: Tenant shall maintain the Pier and service areas adjacent to the Premises in good repair and in a good, clean, attractive, first-class condition and free from rubbish and dirt at all times and shall store all trash and garbage within the Premises until such time as Tenant has the trash and garbage removed from the Premises. Tenant shall be responsible for placing all its trash and garbage into dumpsters or trash bins without allowing the trash or garbage to spill over onto the ground adjacent to the dumpsters or trash bins. If Tenant does not properly dispose of its trash and garbage, Landlord may have the area cleaned in which event Tenant upon Landlord's demand shall pay all charges incurred by Landlord therefor, plus an administrative charge equal to the greater of \$50 or 20% of the charges incurred by Landlord. These charges shall be considered additional rent and shall be paid to Landlord upon presentation of a bill therefor.

15.3 Pier Master: Tenant shall engage a Pier Master who shall be present at all times when the Pier is open to the public. The Pier Master shall be responsible for the managing of the Pier and advising persons thereon, when necessary, of applicable rules, regulations, and ordinances pertaining to the use of said Pier. The Pier Master shall have the authority to open and close the Pier to the public based upon a threat to public safety including, but not limited to, weather related occurrences. Additional Rules and Regulations are appended hereto as Exhibit "A". The Rules and Regulations in Exhibit "A" may be amended by agreement of the Tenant and the City Manager, the City Manager being specifically granted by the Landlord to be its agent for modifications to the Rules and Regulations set forth on Exhibit A. However, changes to Exhibit A shall not affect any of the Landlord's rights under this Lease.

15.4 Entrance Fees: The Tenant shall be entitled to collect entrance fees from the public which shall operate as a management fee to the Tenant. The entrance fee rates shall be set by the Landlord, subject to the provisions of Exhibit "A".

15.5 Repair/Reconstruction: In the event that Landlord, and its Agents, shall require access to the Pier for purposes of maintenance or reconstruction, the following shall apply: (a) Landlord shall have the right to remove any canopies over the Adjacent Patio Area; (b) Landlord shall have the right to place a construction crane on the Pier through the Adjacent Patio Area. The crane shall remain on the Pier unless a Small Craft Advisory, Tropical Storm Watch, Hurricane Watch or other occurrence that creates a hazardous marine condition is issued necessitating the movement of the crane; (c) the Landlord and its Agents shall have access to the Adjacent Patio Area for the movement of construction supplies and equipment to the Pier, the Landlord shall notify the Lessee in advance the hours needed for access through the Adjacent Patio Area, preferably the afternoon prior to the next day's activities; (d) the Landlord and its Agents' work shall be perpetual with no significant intentional delay or stoppage as weather permits; (e) the temporary easements and powers shall last as long as reasonably needed to complete the needed Pier repairs or re-constructions; (f) after the completion of the repairs or re-constructions, the Landlord shall promptly restore the canopies, if any, over the Adjacent Patio Area and restore the Premises to its original condition before the repairs or re-constructions were done. All work shall be done in a good and workmanlike manner in compliance with all laws, rules, regulations and orders. Any damage to the Premises during the repairs or re-constructions shall be repaired promptly, without delay and prior to any further work being performed on the Pier. Tenant's Rent for the Premises shall be abated during the reconstruction based upon the monthly percentage of the Premises' square feet needed by the Landlord for Pier repair access (if any) in relations to the Premises' total leased square footage.

15.6 Pier Closure: Notwithstanding anything to the contrary in this Lease, in the event that the Pier is closed for more than 10 (ten) consecutive days for reasons not within the Tenant's control, the Tenant shall be entitled to a reduction in Rent of \$300.00 per day for the number of days that the Pier is closed beyond the 10 (ten) consecutive days. The aforementioned reduction in rent shall terminate at midnight the day before the Pier re-opens.

16. ESTOPPEL CERTIFICATES. From time to time, Tenant, on not less than five days' prior notice, shall execute and deliver to Landlord an estoppel certificate in a form generally consistent with the requirements of institutional lenders and certified to Landlord and any mortgagee or prospective mortgagee or purchaser of the Project, Premises or Pier. Tenant shall indemnify, defend, and hold Landlord harmless from all damages resulting from Tenant's failure to comply strictly with its obligations under this article.

17. SUBORDINATION. This Lease is and shall be subject and subordinate to all mortgages and ground leases that may now or hereafter affect the Premises and/or the Pier, and to all renewals, modifications, consolidations, replacements, and extensions of the leases and mortgages. This article shall be self-operative and no further instrument of subordination shall be

necessary. However, in confirmation of this subordination, Tenant shall execute promptly any certificate that Landlord may request. If any ground or underlying lease is terminated, or if the interest of Landlord under this Lease is transferred by reason of or assigned in lieu of foreclosure or other proceedings for enforcement of any mortgage, or if the holder of any mortgage acquires a lease in substitution for the mortgage, or if this Lease is terminated by termination of any lease or by foreclosure of any mortgage to which this Lease is or may be subordinate, then Tenant will, at the option to be exercised in writing by the landlord under any ground or underlying lease or the purchaser, assignee, or tenant, as the case may be (a) attorn to it and will perform for its benefit all the terms, covenants, and conditions of this Lease on Tenant's part to be performed with the same force and effect as if the landlord or the purchaser, assignee, or tenant were the landlord originally named in this Lease, or (b) enter into a new lease with the landlord or the purchaser, assignee, or tenant for the remainder of the Lease Term and otherwise on the same terms, conditions, and rents as provided in this Lease.

18. INDEMNIFICATION. The Tenant shall indemnify and hold harmless the Landlord, including its officials, employees and agents from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the Tenant, its officers, directors, employees, representatives and agents including, without limitation, those representatives and agents employed or utilized by the Tenant, which relates to or arises out of this Lease. The Tenant shall not be responsible for indemnifying or holding harmless that Landlord, its officials, employees and agents for the Landlord's own negligence or the negligence of the Landlord's officials, employees and agents. The Landlord agrees to be responsible for its own negligence. Nothing contained in this Lease shall create a contractual relationship with or a cause of action in favor of a third party against either the Tenant or Landlord, nor shall this Lease be construed as a waiver of sovereign immunity for the Landlord beyond the waiver provided in section 768.28, Florida Statutes. This Indemnification article shall not be construed to restrict, limit, or modify either party's insurance obligations under this Lease and shall not be deemed a waiver of any rights of sovereign immunity that Landlord may have under applicable law. Either party's compliance with the insurance requirements under this Lease shall not restrict, limit, or modify that party's obligations under this Indemnification article.

19. NO WAIVER. The failure of a party to insist on the strict performance of any provision of this Lease or to exercise any remedy for any default shall not be construed as a waiver. The waiver of any noncompliance with this Lease shall not prevent subsequent similar noncompliance from being a default. No waiver shall be effective unless expressed in writing and signed by the waiving party. No notice to or demand on a party shall of itself entitle the party to any other or further notice or demand in similar or other circumstances. The receipt by Landlord of any Rent after default on the part of Tenant (whether the Rent is due before or after the default) shall not excuse any delays as to future Rent payments and shall not be deemed to operate as a waiver of any then existing default by Tenant or of the right of Landlord to enforce the payment of any other Rent reserved in this Lease or to pursue eviction or any other remedies available to Landlord. No payment by Tenant, or receipt by Landlord, of a lesser amount than the Rent actually owed under the terms of this Lease shall be deemed to be anything other than a payment on account of the earliest stipulated Rent. No endorsement or statement on any check or any letter accompanying any check or payment of Rent will be deemed an accord and satisfaction. Landlord may accept the check or payment without prejudice to Landlord's right to recover the balance of the Rent or to pursue any other remedy. It is the intention of the parties that this article modify the common law rules of waiver and estoppel and the provisions of any statute which might dictate a contrary result.

20. SERVICES AND UTILITIES.

20.1 Services Furnished. Landlord shall have no obligation to provide any utilities or services to the Premises. Tenant shall be solely responsible for and shall promptly pay all charges for water, electricity, or any other utility used or consumed in the Premises, including all costs associated with the provision of separate meters for the Premises. Tenant shall contract directly with the local utility providers for such services. Tenant shall be responsible for repairs and maintenance to exit lighting, emergency lighting, and fire extinguishers for the Premises, and for interior janitorial, pest control, and waste removal services. Landlord may at any time change the electrical utility provider for the Premises. Tenant's use of electrical and heating, water, ventilating, and air conditioning services furnished by Landlord shall not exceed, either in voltage, rated capacity, use, or overall load, that which Landlord deems to be standard for the Premises, and, if required by Landlord, all costs associated with the additional usage and the installation and maintenance of facilities for the additional usage, including separate submetering, shall be paid by Tenant as additional rent. Tenant may be required, upon request of Landlord, to provide Tenant's energy consumption data to Landlord in reasonable format required by Landlord.

20.2 Interruption of Services. In no event shall Landlord be liable for damages resulting from the failure to furnish HVAC, water, electric, or other service, unless caused by the negligence or intentional acts of Landlord, and any interruption or failure shall in no manner constitute an eviction of Tenant or entitle Tenant to abatement of any Rent due under this Lease.

21. SECURITY DEPOSIT. Intentionally Deleted.

22. GOVERNMENTAL REGULATIONS. Tenant shall promptly comply with all laws, codes, and ordinances of governmental authorities pertaining to Tenant or its use of the Premises, management of the Pier and/or activities on or about the Project, including the Americans with Disabilities Act of 1990 (“ADA”) and all applicable environmental laws. The Tenant shall be responsible for compliance with provisions of the ADA within the Premises; the Landlord being responsible for compliance with the ADA on the Pier and all areas within the Project. If Tenant’s operations require the ongoing use of hazardous or toxic substances, then Tenant shall supply Landlord with copies of reports and any other monitoring information required by applicable laws. Tenant agrees to pay, and shall indemnify defend, and hold Landlord harmless from and against, any and all losses, claims, liabilities, costs, and expenses (including reasonable attorneys’ fees) incurred by Landlord as a result of any breach by Tenant of its obligations under this article, and as a result of any contamination of the Premises and/or the Pier because of Tenant’s use of hazardous or toxic substances on the Premises and/or the Pier. Tenant shall obtain all licenses and permits from time to time required to enable Tenant to conduct its business under this Lease. No failure of Tenant to obtain or maintain any licenses or permits, or extensions or renewals of them, shall release Tenant from the performance and observance of Tenant’s obligations under this Lease.

23. SIGNS.

23.1 Landlord’s Consent Required. Tenant will not place or permit to be placed or maintained on any portion of the Premises and/or the Pier, including on any exterior door, wall, or window of the Premises, or within the interior of the Premises, if visible from the exterior of the Premises, any signage or advertising matter of any kind, except as is currently existing, without first obtaining Landlord’s written approval and consent, which will not be unreasonably withheld. All signage shall comply with applicable governmental regulations and restrictions affecting the Premises and/or Pier.

23.2 Exterior Alterations. Any signs or other exterior Alterations, including awnings, canopies, decorations, lettering, advertising matters, or other things as may be approved by Landlord shall be maintained by Tenant in good condition and repair at all times and shall conform to the criteria established from time to time by Landlord for the Premises and/or Pier. Upon the expiration or sooner termination of this Lease, if Landlord shall so elect, Tenant at its own expense shall remove all signs and restore the exterior of Premises and/or the Pier to its original condition. This obligation of Tenant shall survive the expiration or sooner termination of this Lease.

24. BROKER. Each of the parties represents and warrants to the other that they have not dealt with any real estate salesperson, agent, finder, or broker in connection with this Lease.

25. END OF TERM/HOLDOVER. Tenant shall surrender the Premises and Pier to Landlord at the expiration or sooner termination of this Lease in good order and condition, broom-clean, except for reasonable wear and tear. Tenant shall be liable to Landlord for all damages, including any consequential damages and holdover rent in accordance with state law, that Landlord may suffer by reason of any holding over by Tenant, and Tenant shall indemnify, defend, and save Landlord harmless against all costs, claims, loss, or liability resulting from delay by Tenant in so surrendering the Premises and Pier, including any claims made by any succeeding tenant founded on any delay. All Alterations made by Landlord or Tenant to the Premises and/or the Pier shall become Landlord’s property on the expiration or sooner termination of the Lease Term. On the expiration or sooner termination of the Lease Term, Tenant, at its expense, shall remove from the Premises and/or Pier all of Tenant’s personal property, all computer and telecommunications wiring, and all Alterations that Landlord designates by notice to Tenant. Tenant shall also repair any damage to the Premises and/or Pier caused by the removal. Any items of Tenant’s property that shall remain in the Premises and/or Pier after the expiration or sooner termination of the Lease Term, may, at the option of Landlord, be deemed to have been abandoned, and in that case, those items may be retained by Landlord as its property to be disposed of by Landlord, without accountability to Tenant or any other party, in the manner Landlord shall determine, at Tenant’s expense. “**Tenant’s Property**” shall mean all moveable personal property, machinery, furniture, and equipment, including moveable trade fixtures, that are installed in the Premises and/or Pier by or for the account of Tenant without expense to Landlord and that can be removed without damage to the Premises and/or the Pier.

26. ATTORNEYS’ FEES. The prevailing party in any litigation arising out of or in any manner relating to this Lease between the Landlord and Tenant, including the declaration of any rights or obligations under this Lease, shall be entitled to recover from the losing party reasonable attorneys’ fees and costs. In addition, if Landlord becomes a party to any suit or proceeding affecting the Premises or involving this Lease or Tenant’s interest under this Lease, other than a suit between Landlord and Tenant, or if Landlord engages counsel to collect any of the amounts owed under this Lease, or to enforce performance of any of the agreements, conditions, covenants, provisions, or stipulations of this Lease, without commencing litigation, then the costs, expenses, and reasonable attorneys’ fees and disbursements incurred by Landlord shall be paid to Landlord by Tenant. Notwithstanding the

foregoing, Tenant shall not owe Landlord for any costs, expenses or attorneys' fee and disbursements for litigation or actions brought by a third party against the Landlord which arises out of Landlord's ownership of the Pier and which does not arise out of or in any manner relate to this Lease or the Tenant's obligations hereunder.

27. NOTICES. Any notice to be given under this Lease may be given either by a party itself or by its attorney or agent and shall be in writing and delivered by hand, by facsimile, by nationally recognized overnight air courier service (such as FedEx), or by the United States Postal Service, registered or certified mail, return receipt requested, in each case addressed to the respective party at the party's notice address. A notice shall be deemed effective upon receipt or the date sent if it is returned to the addressor because it is refused, unclaimed, or the addressee has moved.

28. IMPOSSIBILITY OF PERFORMANCE. For purposes of this Lease, the term "Unavoidable Delay" shall mean any delays due to strikes, lockouts, civil commotion, war or warlike operations, acts of terrorism, acts of a public enemy, acts of bioterrorism, epidemics, quarantines, invasion, rebellion, hostilities, military or usurped power, sabotage, government regulations or controls, inability to obtain any material, utility, or service because of governmental restrictions, hurricanes, floods, or other natural disasters, acts of God, or any other cause beyond the direct control of the party delayed. Notwithstanding anything in this Lease to the contrary, if Landlord or Tenant shall be delayed in the performance of any act required under this Lease by reason of any Unavoidable Delay, then provided notice of the Unavoidable Delay is given to the other party within ten days after its occurrence, performance of the act shall be excused for the period of the delay and the period for the performance of the act shall be extended for a reasonable period, in no event to exceed a period equivalent to the period of the delay. The provisions of this article shall not operate to excuse Tenant from the payment of Rent or from surrendering the Premises or Pier at the end of the Lease Term, and shall not operate to extend the Lease Term. Delays or failures to perform resulting from lack of funds or the increased cost of obtaining labor and materials shall not be deemed delays beyond the direct control of a party.

29. FINANCIAL REPORTING. Within 15 days after a request from Landlord, Tenant shall furnish to Landlord a balance sheet of Tenant as of the end of the most recently ended fiscal year of Tenant and a statement of income and expense for the year then ended, together with a certificate of the chief financial officer of Tenant to the effect that the financial statements have been prepared in conformity with generally accepted accounting principles consistently applied and fairly present the financial condition and results of operations of Tenant as of and for the period covered.

30. ADVERTISING.

30.1 Advertised Name and Address. Tenant shall not use the name of the Lake Worth Municipal Ocean Pier for any purpose other than as the address of the business to be conducted by Tenant in the Premises and/or Pier and Tenant shall not acquire any property right in or to any name which contains the name of the Pier as a part of the name. Tenant shall not use the name of Landlord in any advertisement or otherwise. Tenant shall use in its advertising and promotional activities for its business in the Premises such references to the name of the Pier and such identifying lettering, logos, marks, or symbols referring to the Pier as Landlord shall specify from time to time. Notwithstanding the foregoing, Landlord shall have the right to prohibit the use by Tenant of the name, marks, and symbols of the Pier in any manner determined to be unacceptable to Landlord in its sole discretion.

30.2 Trademark License. During the Lease Term, Tenant grants Landlord a non-exclusive and royalty-free license and limited right to use Tenant's trade names, trademarks, logos, and designs in the printing, publication, and distribution of promotional newsletters, advertisements, marketing brochures, and other materials (the "Marketing Materials") by Landlord and related entities.

31. MOLD. Tenant is advised that mold and/or other microscopic organisms ("Mold Conditions") are prevalent in Florida's humid climate and locations, especially in proximity to bodies of water. Mold Conditions may cause allergic reactions, respiratory reactions or other problems, particularly in persons with immune system problems, young children and elderly persons. Tenant acknowledges that it is fully responsible to maintain the proper operation of the HVAC system in the Premises at all times during the Lease Term to inhibit Mold Conditions. Tenant shall ensure property maintenance of the Premises and Pier to limit the accumulation of water and excessive moisture inside the Premises and on the Pier. Tenant shall notify Landlord immediately of any water intrusion conditions arising within the Premises or excessive water intrusion conditions on the Pier. TENANT ACKNOWLEDGES THE FOREGOING, AND AGREES TO ACCEPT FULL RESPONSIBILITY FOR ANY AND ALL RISKS RELATED TO MOLD CONDITIONS IN THE PREMISES AND PIER. TENANT AGREES TO RELEASE, HOLD HARMLESS AND INDEMNIFY LANDLORD, LANDLORD'S OFFICERS, AGENTS, EMPLOYEES, AND SUCCESSORS FROM ANY AND ALL LIABILITY OR DAMAGES, WHETHER FINANCIAL OR OTHERWISE, ARISING FROM OR RELATED TO MOLD CONDITIONS IN THE PREMISES AND ON THE PIER.

32. GENERAL PROVISIONS.

32.1 Construction Principles. The words “including” and “include” and similar words will not be construed restrictively to limit or exclude other items not listed. This Lease has been negotiated “at arm’s-length” by Landlord and Tenant, each having the opportunity to be represented by legal counsel of its choice and to negotiate the form and substance of this Lease. Therefore, this Lease shall not be more strictly construed against either party by reason of the fact that one party may have drafted this Lease. If any provision of this Lease is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Lease shall remain in full force, if the essential provisions of this Lease for each party remain valid, binding, and enforceable. The parties may amend this Lease only by a written agreement of the parties. This Lease shall constitute the entire agreement of the parties concerning the matters covered by this Lease. All prior understandings and agreements had between the parties concerning those matters, including all preliminary negotiations, lease proposals, letters of intent, and similar documents, are merged into this Lease, which alone fully and completely expresses the understanding of the parties. Landlord and Tenant intend that faxed or PDF format signatures constitute original signatures binding on the parties. This Lease shall bind and inure to the benefit of the heirs, personal representatives, and, except as otherwise provided, the successors and assigns of the parties to this Lease. Any liability or obligation of Landlord or Tenant arising during the Lease Term shall survive the expiration or earlier termination of this Lease.

32.2 No Representations by Landlord. Neither Landlord nor Landlord’s agents have made any representations or promises concerning the physical condition of the Pier or the Premises, Tenant’s ability to use the Premises or the Pier for the uses permitted under this Lease, the area of the Premises or Pier or the manner of calculating such area, anticipated Operating Costs, or any other matter affecting or relating to the Premises or Pier, except as expressly set forth in this Lease and no rights, easements, or licenses are acquired by Tenant by implication or otherwise except as expressly set forth in this Lease.

32.3 Radon Gas. The following notification is provided under Section 404.056(6), Florida Statutes: “Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.”

32.4 JURY WAIVER; COUNTERCLAIMS. LANDLORD AND TENANT KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM INVOLVING ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. TENANT FURTHER WAIVES THE RIGHT TO INTERPOSE ANY NON-COMPULSORY COUNTERCLAIM OF ANY NATURE IN ANY ACTION TO OBTAIN POSSESSION OF THE PREMISES.

32.5 SDN COMPLIANCE. Tenant hereby represents, warrants and certifies that neither (i) Tenant, nor (ii) any of persons or entities that control or are controlled by Tenant (each a “**Tenant Party**”), has been, is currently, or at any time in the future shall be listed on the Specially Designated National list (“**SDN List**”) maintained by the United States Department of the Treasury Office of Foreign Assets Control (“**OFAC**”). At its option, Landlord shall have the right to immediately terminate this Lease if any Tenant Party becomes listed on the SDN List.

32.7 VENUE/CHOICE OF LAW: Any action brought under this action shall be brought in Palm Beach County, Florida. The choice of law shall be the laws of the State of Florida.

32.8 PUBLIC ENTITY CRIMES. Tenant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Tenant will advise the Landlord promptly if it becomes aware of any violation of this statute.

32.9 PREPARATION. This Lease shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

32.10 PALM BEACH COUNTY IG. In accordance with Palm Beach County ordinance number 2011-009, the Tenant acknowledges that this Lease may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Tenant

is advised to review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance.

32.11 TIME OF ESSENCE. Time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

33.12 NON-DISCRIMINATION. The parties agree that no person shall, on the grounds of race, color, sex, age, national origin, disability, religion, ancestry, marital status, sexual orientation, or gender identity or expression, be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Lease.

32.13 INCORPORATION BY REFERENCE. Exhibits attached hereto and/or referenced herein shall be deemed to be incorporated into this Lease by reference.

32.14 EFFECTIVENESS. This Lease is expressly contingent upon the approval of the Landlord's City Commission and shall become effective only when signed by all parties and approved by the Landlord's City Commission. Except where specifically authorized in this Lease, all modifications to this Lease require approval of the Landlord's City Commission.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANKSIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Lease has been executed on behalf of Landlord and Tenant as of the Commencement Date of this Lease.

WITNESSES:

[Signature]
Signature of Witness 1

Deborah M. Andrea
Print or type name of Witness 1

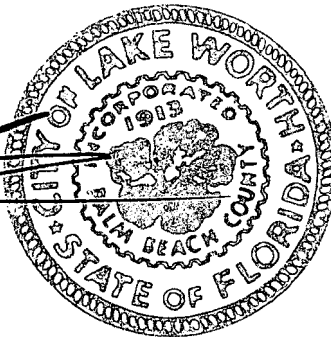
[Signature]
Signature of Witness 2

Pamela J. Lopez
Print or type name of Witness 2

ATTESTS:

By: [Signature]
Pamela J. Lopez, City Clerk

By: [Signature]
Michael Bornstein, City Manager



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature] FOR
Glen J. Torcivia, City Attorney

[Signature]
Signature of Witness 1

JUAN RUIZ
Print or type name of Witness 1

[Signature]
Signature of Witness 2

BRAD LUKAS
Print or type name of Witness 2

LANDLORD:

CITY OF LAKE WORTH,
a municipal corporation under the laws of the State of Florida

By: [Signature]
Name: Pam Triolo
Title: Mayor

Date Executed: 2/11/13

TENANT:

RTT-BENNY'S ON THE BEACH, INC.
a Florida corporation

By: [Signature]
Name: Peter Thanopoulos
Title: Owner

[CORPORATE SEAL]

Date Executed: 1/30/2013

EXHIBIT "A"

RULES FOR OPERATION OF THE PIER

A. RULES AND REGULATIONS

Notwithstanding any provisions to the contrary, the following shall control the operations of the Pier.

1. The Landlord is responsible for the replacement of wood boards and wood railings on the Pier in case of damage.
2. Tenant agrees to pressure wash the Pier once a quarter and maintain the Pier clear of debris and litter.
3. The Landlord will provide Benny's with appropriate trash can and recycling receptacles for the Pier.
4. Landlord agrees to install additional signage regarding Shark Fishing not being permitted from the Pier. All sharks hooked on the Pier must be water released and not brought onto the Pier.
5. Tenant agrees to maintain a professional staff to oversee the Pier operation and to conduct business with the daily public for all posted hours of operation. Tenant agrees to contact Landlord if circumstances prevent Tenant from staffing the Pier for any period of time.
6. Tenant agrees to design and operate a website dedicated to the Pier with calendar of events, fishing report and other applicable promotional information to inform the public of activities taking place on the Pier.
7. Tenant agrees to cover the cost of Refuse Service for their share of usage at the Pier, which shall be an amount to be determined by Public Services and the calculations provided to Tenant for verification.
8. Rates for general access to the Pier shall be set by the Landlord, but shall not be less than the rates advertised on the date of this Lease without the written approval of Tenant.
9. Any monetary sums collected by the Tenant for parking upon the Landlord's parking lots, including, without limitation, the lot at the Project ("Parking Pass"), shall be transmitted monthly to the Landlord. A Parking Pass is defined as only those parking amounts collected from individuals for self-parking. This shall not apply if the Tenant has a valid valet parking arrangement with the Landlord for parking at the Premises.
10. Tenant agrees to abide by and assist in the enforcement of the regulations and restrictions set forth in the Code of Ordinances of the City of Lake Worth for the Pier. Violations of the regulations and restrictions set forth in the Code of Ordinances of the City of Lake Worth for the Pier shall be promptly brought to the attention of the Landlord for further enforcement purposes.

B. CITY ACCESS

The Landlord may access the Pier for special events upon thirty (30) days' notice to the Tenant. The Landlord shall be responsible any additional security necessitated by the special event. The Landlord and Tenant shall enter into an event plan to coordinate the Landlord's occupancy of the Pier, including provisions for waste, additional restroom facilities, kiosks and other special provisions. For purposes of Landlord coordinated events on the Pier pursuant to this section, the Landlord shall retain the right to use a food and beverage provider of the of the Landlord's choosing to provide their event food and beverage services; provided however, that the Landlord shall not permit a food and beverage provider selling for commercial gain. This restriction does not apply to events taking place off the Pier for which the Landlord may utilize food and beverage vendors of the Landlord's choosing.

EXHIBIT "B"

TENANT ALTERATION REQUIREMENTS

A. Requirements Prior to Commencement of Any Work in the Premises:

1. Two (2) copies of Tenant's general contractor's or any subcontractor, as may apply, liability insurance naming Landlord and its managing agent as additional insureds.
2. Two (2) copies of approved building permit. Permit to include sufficient information to describe the work and designate the name and suite number of Tenant or if the work is extensive provide copies of plans and specifications as approved by the Building Department with the permit. (Landlord reserves the right to review and approve additional items and comments that may be required by the Building Department before commencement of the work.)
3. Prepare two (2) copies for Landlord's approval of a recordable "Notice of Commencement" executed by Tenant as "Owner".
4. Two (2) copies of Contractor "Certificate of Liability Insurance" prepared in accordance with the requirements of the Project, and evidencing the existence of builder's risk, commercial general liability, and workers' compensation insurance complying with the requirements of the Insurance article of this Lease.
5. One (1) copy of the Contractor's Florida Contracting License.
6. Two (2) copies of the work/project's completion schedule.
7. Two (2) copies of project vendor list with contact information.
8. Tenant, at its expense, will provide and furnish to Landlord payment and performance bonds (or other similar assurances agreed by Landlord), by a surety company reasonably acceptable to Landlord, in amounts equal to 150% of the costs and expenses of the work to be performed by the Tenant.

B. General Requirements:

1. Tenant and all construction personnel shall abide by Landlord's job site rules and regulations and fully cooperate with Landlord's construction representatives in coordinating all construction activities in the Premises, including rules and regulations concerning working hours, parking, and use of the construction elevator, if applicable.
2. Tenant shall be responsible for cleaning up any refuse or other materials left behind by construction personnel at the end of each work day.
3. Tenant shall deliver to Landlord all forms of approval provided by the appropriate local governmental authorities to certify that the Tenant Improvements and Alterations have been completed and the Premises are ready for occupancy, including original building permit and a final, unconditional certificate of occupancy.
4. At all times during construction, Tenant shall allow Landlord access to the Premises for inspection purposes. On completion of any Alterations and Tenant Improvements, Tenant's general contractor shall review the Premises with Landlord and Tenant and secure Landlord's and Tenant's acceptance of the Tenant Improvements and Alterations.
5. Workers shall provide their own temporary toilet facilities, trash facilities, water coolers, and construction materials dumpsters and shall locate them along with any construction trailers or field offices in areas specifically designated by Landlord.

6. No painting or spraying of chemicals, varnishes, lacquers, finishes, or paint will be allowed during normal business hours. Such activities shall only occur during days and times specifically preapproved by Landlord.

7. Any work that may disturb tenants of the Project ("Tenants") (including welding, cutting torch, drilling or cutting of the concrete floor slab or temporary interruption of any utility service), shall only occur before or after normal business hours and with Landlord's prior consent. Any unduly loud noise complained of by other Tenants will be immediately diminished to Landlord's reasonable satisfaction or the work will cease until the noise is so diminished.

8. Reasonable quantities of water and electricity for lighting, portable power tools, and other common uses as well as use of the construction elevator will be furnished to the contractor at a cost to be assigned at the completion of the job based on usage during the build-out period (including Building standard charges for use of the elevator). The contractor shall make all connections, furnish any necessary extensions, and promptly and professionally remove such connections and extensions on completion of work.

9. If a shutdown of plumbing, sprinkler, electrical, air conditioning and/or other equipment becomes necessary in connection with Tenant's work, Tenant will notify Landlord in advance and Landlord will determine when such shutdown may be made, and at Landlord's election any such shutdown will be done only when a representative of Landlord is present. In all instances where this is done, the system shall not be left inoperable overnight or over a prolonged period.

10. If applicable, all equipment installed shall be compatible with the base building fire alarm system and the contractor shall warrant that any connection to the base building fire alarm system shall only occur after proper notification to Landlord and on an after-hours basis. Any disruption to the existing fire alarm system or damage as a result of contractor's work will be the sole responsibility of Tenant.

11. All additional electrical circuits added to existing electrical panels or any new circuits added to new electrical panels will be appropriately labeled as to the area or equipment serviced by the circuit in question. Any electrical panel covers removed to facilitate installation or connection shall be reattached.

12. All workers must stay in their designated work areas and the use of radios, loud music, alcoholic beverages, narcotics, or cigarette smoking is prohibited in the Premises.

13. Any roof opening required at the Premises shall be performed by Landlord's roofing contractor if Landlord so demands, at Tenant's expense. Such openings shall include supporting structures, angles, curbs, flashing ducts, and vents and grills. Landlord may refuse to approve such roof opening request if it may affect the roof's structural system, may void the roof warranty, or may otherwise affect the integrity of the roofing system.

14. Any damage to any part of the Premises or Pier that occurs as a result of any work performed by Tenant shall be promptly repaired by Tenant to the reasonable satisfaction of Landlord.

15. Tenant, at its expense, will promptly repair or replace, or at Landlord's election reimburse Landlord for the cost of repairing or replacing, property of Landlord that may be damaged, lost or destroyed in the performance of the work or as a result thereof.

16. Landlord will have no responsibility for or in connection with the work; Tenant, at its expense, will remedy and be responsible for all defects in the work, whether appearing during its progress or after completion and whether the same affect the Premises in particular or any of portion of the Premises or the Pier.

17. Demolition of partitions and removal of rubbish will be done during hours first approved by Landlord's City Manager in writing. All such materials are to be taken from the Premises through the delivery entrance of the Premises, by the freight elevator only (if any); or, if not freight elevator exists, only through the rear entrance of the Premises.

18. Electrical and power panel balancing will be maintained by and at the expense of Tenant during the entire period of Tenant Work.

19. Tenant and its contractors will not demolish or remove any of the Premises' or Pier's structure.

20. Roof openings (including, supporting structures, angles, curbs, flashing, ducts, vents and grills) are subject to Landlord's City Manager's prior written consent in each instance, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Landlord's City Manager may refuse to give its consent to any roof opening that in Landlord's City Manager's judgment exceeds the capability of the structural system. Any roof openings consented to by Landlord's City Manager must be made only by Landlord's roofing contractor at Tenant's expense, or such duly licensed roofing contractor as Landlord's City Manager may designate or approve in writing in its sole discretion.

21. All corridor, elevator, and lobby finishes require protection during construction.

22. There is a Two Hundred Fifty and 00/100 Dollar (\$250.00) penalty for "false alarms".

C. Upon Completion of the Work, Tenant Shall Provide to the Landlord:

1. Two (2) copies each of final inspection report and Certificate of Occupancy or Completion indicating that the work has been completed in accordance with the permit issued by the applicable Building Department.

2. Two (2) copies each of "as-built" drawings indication the alterations and relocating of existing construction (mechanical, electrical, etc...) if applicable, in PDF file format or on CD's.

3. Two (2) copies each of "Final Releases" in accordance with the Florida Lien Laws from general contractor, subcontractors, vendors, and suppliers associated with the work and Contractor's Final Affidavit indicating that all subcontractors have been paid in full for the work.

4. Two (2) copies each of permit plans including approved fire sprinkler drawings.

5. Two (2) copies of all equipment operating and maintenance manuals and demonstration of any equipment that will become the property of Landlord.

6. Two (2) copies of general contractor's one (1) year warranty on labor and materials for the work.

7. Two (2) copies of all other manufacturer guarantees/warranties on the improvements. Manufacturer's guarantees/warranties shall name Landlord as beneficiary where Landlord is or shall become responsible for the repair and maintenance of the installation.

8. Two (2) original copies of a letter from the architect of record indicating that the improvements have been installed in accordance with the approved plans and specification for the Building.

9. Two (2) copies of Tenant's completed "punch list" signed off by the Architect or Tenant's representative that the work has been satisfactorily completed by the Contractor.

10. Extra attic stock materials used in the build-out such as flooring, ceiling, base, paint, wall covering, etc materials to be stored in Tenant's suite for future use.

11. Two (2) copies of an independent HVAC Test and Balance report, if applicable.

12. Two (2) original copies of the Contractor's Final Owner (Tenant) Affidavit which is necessary to terminate the Notice of Commencement once the work has been concluded and the "Notice to Terminate the Notice of Commencement" document prepared by Tenant's Contractor and recorded by the Tenant.

13. Two (2) copies of the final payment application from the general contractor and accounting of the construction contract amounts (final AIA application for payment).

The above required documentation must be delivered to Landlord prior to the release of any payments that may be due under the Lease.

D. Sustainability Requirements:

1. Tenant shall comply with any recycling requirements enacted by Landlord, including the separation of construction materials/debris, paper, cardboard, plastics and glass.

2. Tenant shall provide all contractors performing work with a copy of these Rules and Regulations and a copy of the Lien section of the Lease indicating that no liens may be placed against Landlord's interest in the Premises or Pier for work performed by Tenant.

**MARKET RENT ANALYSIS OF RETAIL AND RESTAURANT SPACE SITUATED
WITHIN THE LAKE WORTH BEACH CASINO AND PIER COMPLEX LOCATED AT
10 SOUTH OCEAN BOULEVARD LAKE WORTH BEACH, FLORIDA 33460**

FOR

LAUREN BENNETT, CPRP CITY OF LAKE WORTH BEACH

BY

ROBERT B. BANTING, MAI, SRA CERT GEN RZ4

WITH

ANDERSON & CARR, INC.

521 SOUTH OLIVE AVENUE WEST PALM BEACH, FLORIDA 33401

DATE OF INSPECTION: AUGUST 30, 2022 DATE OF REPORT: SEPTEMBER 14, 2022

DATE OF VALUE: AUGUST 30, 2022

**FILE NO.: 2220385.000 CLIENT REFERENCE: 10 SOUTH OCEAN
BOULEVARD**



September 14, 2022

Ms. Lauren Bennett, CPRP
 City of Lake Worth Beach
 17 South M Street
 Lake Worth Beach, FL 33460

Dear Ms. Bennett, CPRP:

Pursuant to your request, we have personally performed a market rent analysis of the subject premises, consisting of retail and restaurant space situated within the Lake Worth Casino and Beach Complex. There is a total of (4) spaces in which the market rent is being surveyed; Benny's on the Beach, Mama Mia's Pizzeria, Kilwin's, and BF Enterprises dba Lake Worth Beach Tee Shirt Co.

The subject premises are located at the eastern terminus of Lake Avenue, on the west side of Lake Worth Public Beach and right side of South Ocean Boulevard in Lake Worth Beach. The property address is 10 South Ocean Boulevard, Lake Worth Beach, Florida. The subject premises are situated within the Lake Worth Casino and Beach Complex which features a new oceanfront park, restaurants, shops, ballroom, restrooms, picnic facilities, the William O. Lockhart Municipal Pier, and municipal pool (currently closed). The improvements contain a total of approximately 28,145 square feet of building area situated on approximately 21.41 acres of land. The complex offers ample metered parking spaces. Below is a table with a description of the subject premises:

Lake Worth Casino and Beach Complex					
10 South Ocean Boulevard, Lake Worth Beach, Florida 33460					
Tenant (Trade Name)	Suite #	Description	Rentable Area (SF)	Patio Area (SF)	Total SF
Benny's on the Beach	LW Pier	Restaurant	7,342	400	7,742
Mama Mia's	1 & 2	Restaurant	1,332	436	1,768
Kilwin's	3 & 4	Retail	1,332	367	1,699
LW Tee Shirt Co.	5 & 6	Retail	1,348	N/A	1,348

The purpose of this assignment is to estimate the market rent for the subject property as of August 30, 2022. The intended use of the report is to assist the client and intended user in establishing a market rental rate for negotiating lease renewals. This report has been prepared for no other purpose and for use by no other person or entity than for use by the client for the purpose stated herein. Any other use of this report is considered a misuse and thus the appraisers will not be held responsible for any outcome associated with use by another entity or for another purpose.



ANDERSON CARR

City of Lake Worth Beach
Lauren Bennett, CPRP
Page 2
September 14, 2022

As a result of our analysis, we have developed an opinion that the market rent (as defined in the report), subject to the definitions, certifications, and limiting conditions set forth in the attached report, as of August 30, 2022 was as follows in the below table:

Lake Worth Casino and Beach Complex 10 South Ocean Boulevard, Lake Worth Beach, Florida 33460				
Tenant (Trade Name)	Suite #	Description	Current Base Rent Excluding Patio (Annual)	Market Base Rent Excluding Patio (Annual)
Benny's on the Beach	LW Pier	Restaurant	\$240,000.00	\$242,000.00
Mama Mia's	1 & 2	Restaurant	\$63,531.07	\$66,500.00
Kilwin's	3 & 4	Retail	\$45,383.90	\$60,000.00
LW Tee Shirt Co.	5 & 6	Retail	\$64,301.50	\$61,000.00
Base Rents DO NOT include Patio Area(s), where applicable				
Does not include applicable sales tax or CAM charges				

The following presents our market rent survey analysis. This letter must remain attached to the report, which contains 45 pages plus related exhibits, in order for the market rent conclusions set forth to be considered valid.

Respectfully submitted,

ANDERSON & CARR, INC.

Robert B. Banting, MAI, SRA
Cert Gen RZ4

RBB:



ANDERSON CARR

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Qualifications for Robert B. Banting, MAI, SRA, Cert Gen RZ4



DRAFT

SUMMARY OF IMPORTANT FACTS AND CONCLUSIONS

Client:	City of Lake Worth Beach Lauren Bennett, CPRP
Intended User:	City of Lake Worth Beach
Analysis Performed:	Market Rent Analysis
Special Assumptions Reference:	None
Unusual Market Externality:	Covid-19 Pandemic
Location:	The subject premises are located within the Lake Worth Beach Casino and Beach Complex at the eastern terminus of Lake Worth Road, on the west side of Lake Worth Public Beach and right side of South Ocean Boulevard in Lake Worth Beach. The property address is 10 South Ocean Boulevard, Lake Worth Beach, Florida.
Year Built:	1920's, rebuilt in 1940's and 1970's, rebuilt new in 2012
Total Building Area:	28,145 square feet
Total Rentable Area:	Benny's: 7,342 square feet plus 400 square foot patio Mama Mia: 1,332 square feet plus 436 square foot patio Kilwins: 1,332 square feet plus 367 square foot patio LW Tee Shirt Co.: 1,348 square feet
Site/Land Area:	932,620 square feet or 21.41 acres of land area
Zoning:	BAC- Beach and Casino by City of Lake Worth Beach
Number of Floors:	2
Basic Construction:	CBS and wood frame
Exterior Finish:	Painted Stucco
Roof Support/Covering:	Flat roof (the covering was not inspected; however, it is



assumed to be typical built-up or membrane type covering in good working condition), barrel tile mansard

Doors:

Glass store front doors

Windows:

Fixed glass in metal frame storefronts

Floors:

Benny's: Ceramic Tile, wood decking

Mama Mia: Ceramic Tile

Kilwins: Ceramic Tile, vinyl

LW Tee Shirt Co.: Wood

Ceiling:

Benny's: Drywall

Mama Mia: Acoustical Ceiling Tiles

Kilwins: Exposed and acoustical ceiling tiles

LW Tee Shirt Co.: Exposed

Interior Walls:

Benny's: Drywall, wall paper, FRP in kitchen

Mama Mia: Drywall, decorative stone

Kilwins: Drywall

LW Tee Shirt Co.: Drywall

Lighting:

Fluorescent and incandescent fixtures, trac lighting

Fire Detection:

Benny's: Fire alarm, fire extinguisher

Fire sprinkler system, fire alarm, fire extinguisher (Mama Mia's, Kilwins and LW Tee Shirt Co.)

AC/Heating:

Central HVAC

Parking:

Metered public parking



Building Comments/Condition:

Property appeared to be in good overall condition. There were no signs of deferred maintenance noted during the inspection of the subject premises.

Description of Premises:

Benny's: The premises is a fully built out restaurant space containing a total of approximately 3,400 square feet of enclosed rentable area with an additional outdoor dining, bar and patio areas totaling approximately 4,342 square feet. The premises is situated on the Lake Worth Beach Pier with the southern portion of the pier being utilized as outdoor dining area. The premises also consists of an enclosed upper dining area, small air conditioned dining area, an outside covered bar, tent and patio areas, and (2) restrooms. Additionally, there is a small "bait shop" where admittance to the pier is paid and where patrons can purchase bait and concession. The restaurant is responsible for maintaining the pier and collecting fees for guest parking and guest utilization of the pier.

Mama Mia's: The premises is situated in Units 1 & 2 on the ground floor of the Lake Worth Casino building and contains 1,332 square feet of enclosed building area as well as a 436 square foot patio/outdoor dining area. The premises is a fully built out restaurant with kitchen, pizza ovens, walk in freezer and dining area.

Kilwins: The premises is situated in Units 3 & 4 on the ground floor of the Lake Worth Casino building and contains 1,332 square feet of enclosed building area as well as a 367 square foot patio/outdoor area. The premises contains a walk in freezer, ice cream serving counter, retail displays and indoor/outdoor seating areas.

LW Tee Shirt Co.: The premises contains 1,348 square feet and is fully built out as a retail store with a small office. The premises is situated in Units 5 & 6 on the ground floor of the Lake Worth Casino building.

Mama Mia's, Kilwins, and LW Tee Shit Co. utilize common area public restrooms which are located nearby within the building.

Current Use:

Commercial/Restaurant/Retail



Market Rent Conclusions:

Benny's on the Beach:
Net Annual Market Rent: \$248,000
Net Monthly Market Rent: \$20,666.67

Mama Mia's Pizzeria:
Net Annual Market Rent: \$73,000
Net Monthly Market Rent: \$6,083.33

Kilwins:
Net Annual Market Rent: \$65,500
Net Monthly Market Rent: \$5,458.33

BF Enterprises (Lake Worth Tee Shirt Co.):
Net Annual Market Rent: \$61,000
Net Monthly Market Rent: \$5,083.33

Date of Inspection: August 30, 2022
Date of Report: September 14, 2022
Date of Value: August 30, 2022

CERTIFICATION

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions, and conclusions are limited only by the reported general limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, conclusions, and recommendations.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three year period immediately preceding acceptance of this assignment.

I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.

I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results. This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.



My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

Robert B. Banting, MAI, SRA has made a personal inspection of the property that is the subject of this report.

As of the date of this report, Robert B. Banting, MAI, SRA has completed the continuing education program of the Appraisal Institute.

No one provided significant real property appraisal or appraisal consulting assistance to the person signing this certification.



-
Robert B. Banting, MAI, SRA
Cert Gen RZ4

GENERAL LIMITING CONDITIONS

1. Unless otherwise stated, the value appearing in this appraisal represents our opinion of the market value or the value defined as of the date specified. Values of real estate are affected by national and local economic conditions and consequently will vary with future changes in such conditions.
2. Possession of this report or any copy thereof does not carry with it the right of publication nor may it be used for other than its intended use. The physical report(s) remains the property of the appraiser for the use of the client. The fee being for the analytical services only. The report may not be copied or used for any purpose by any person or corporation other than the client or the party to whom it is addressed, without the written consent of an officer of the appraisal firm of Anderson & Carr, Inc. and then only in its entirety.
3. Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relations efforts, news, sales or other media without written consent and approval of an officer of Anderson & Carr, Inc. nor may any reference be made in such public communication to the Appraisal Institute or the MAI, SRA or SRPA designations.



4. The appraiser may not divulge the material contents of the report, analytical findings or conclusions, or give a copy of the report to anyone other than the client or his designee, as specified in writing except as may be required by the Appraisal Institute, as they may request in confidence for ethics enforcement or by a court of law or body with the power of subpoena.
5. Liability of Anderson & Carr, Inc. and its employees is limited to the fee collected for the appraisal. There is no accountability or liability to any third party.
6. It is assumed that there are no hidden or unapparent conditions of the property, sub-soil, or structures which make it more or less valuable. The appraiser assumes no responsibility for such conditions or the engineering which might be required to discover these facts.
7. This appraisal is to be used only in its entirety. All conclusions and opinions concerning the analysis which are set forth in the report were prepared by the appraisers whose signatures appear on the appraisal report. No change of any item in the report shall be made by anyone other than the appraiser and the appraiser and firm shall have no responsibility if any such unauthorized change is made.
8. No responsibility is assumed for the legal description provided or other matters legal in character or nature, or matters of survey, nor of any architectural, structural, mechanical, or engineering in nature. No opinion is rendered as to the title which is presumed to be good and merchantable. The property is valued as if free and clear of any and all liens and encumbrances and under responsible ownership and competent property management unless otherwise stated in particular parts of the report.
9. No responsibility is assumed for accuracy of information furnished by or from others, the clients, their designee, or public records. We are not liable for such information or the work of subcontractors. The comparable data relied upon in this report has been confirmed with one or more parties familiar with the transaction or from affidavit when possible. All are considered appropriate for inclusion to the best of our knowledge and belief.
10. The contract for appraisal, consultation or analytical service is fulfilled and the total fee payable upon completion of the report. The appraiser or those assisting the preparation of the report will not be asked or required to give testimony in court or hearing because of having made the appraisal in full or in part; nor engaged in postappraisal consultation with client or third parties, except under separate and special arrangement and at an additional fee.
11. The sketches and maps in this report are included to assist the reader and are not necessarily to scale. Various photos, if any, are included for the same purpose and are not intended to represent the property in other than actual status as of the date of the photos.
12. Unless otherwise stated in this report, the appraisers have no reason to believe that there may be hazardous materials stored and used at the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials



may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

13. No environmental or impact studies, special market studies or analysis, highest and best use analysis study or feasibility study has been requested or made unless otherwise specified in an agreement for services or in the report. Anderson & Carr, Inc. reserves the unlimited right to alter, amend, revise or rescind any of the statements, findings, opinions, values, estimates or conclusions upon any previous or subsequent study or analysis becoming known to the appraiser.

14. It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless the lack of compliance is stated, described, and considered in this appraisal report.

15. The rent estimated in this appraisal report is gross without consideration given to any encumbrance, lien, restriction, or question of title, unless specifically defined. The estimate of rent in the appraisal report is not based in whole or in part upon the race, color, or national origin of the present owners or occupants of the properties in the vicinity of the property appraised.

16. It is assumed that the property conforms to all applicable zoning, use regulations, and restrictions unless a nonconformity has been identified, described, and considered in this appraisal report.

17. It is assumed that all required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the opinion of rent contained in this report is based.

18. It is assumed that the use of the land and improvements is confined within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.

19. This appraisal report has been prepared for the exclusive benefit of the client and intended users, City of Lake Worth Beach. This report has been prepared for no other purpose and for use by no other person or entity than for use by the client for the purpose stated herein. Any other use of this appraisal is considered a misuse and thus the appraisers will not be held responsible for any outcome associated with use by another entity or for another purpose.

20. The Americans with Disabilities Act (ADA) became effective January 26, 1992. The appraisers have not made a specific compliance survey and analysis of this property to determine whether or not it is in conformity with the various detailed requirements of the ADA. It is possible that a compliance survey of the property, together with a detailed analysis of the requirements of the ADA, could reveal that the property is not in compliance with one or more of the requirements of the Act. If so, this fact could have a negative effect upon the value of the property. Since the appraisers have no direct



evidence relating to this issue, possible non-compliance with the requirements of the ADA in estimating the value of the property has not been considered.

21. ACCEPTANCE OF, AND/OR USE OF THIS APPRAISAL REPORT CONSTITUTES ACCEPTANCE OF THE PRECEDING CONDITIONS.



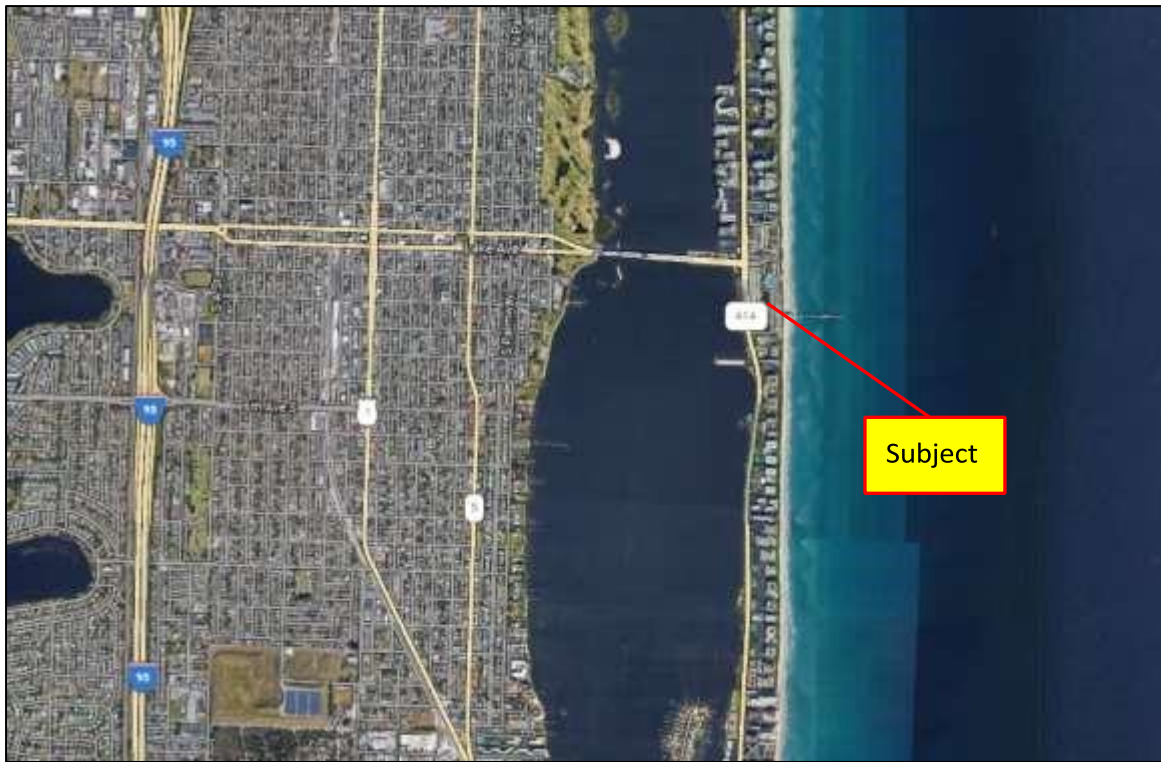
AREA/LOCATION MAPS





AERIAL PHOTOGRAPHS





SUBJECT PROPERTY PHOTOS (TAKEN AUGUST 30, 2022)



West side of Benny's On The Beach





East side of Benny's On The Beach



South side of Benny's On The Beach/Outdoor dining area



North side of Benny's On The Beach





Indoor Dining Area



Upper Level Dining Area- Benny's On The Beach



Kitchen- Benny's On The Beach



Outdoor Dining Area- Benny's On The Beach





Tent Area- Benny's On The Beach

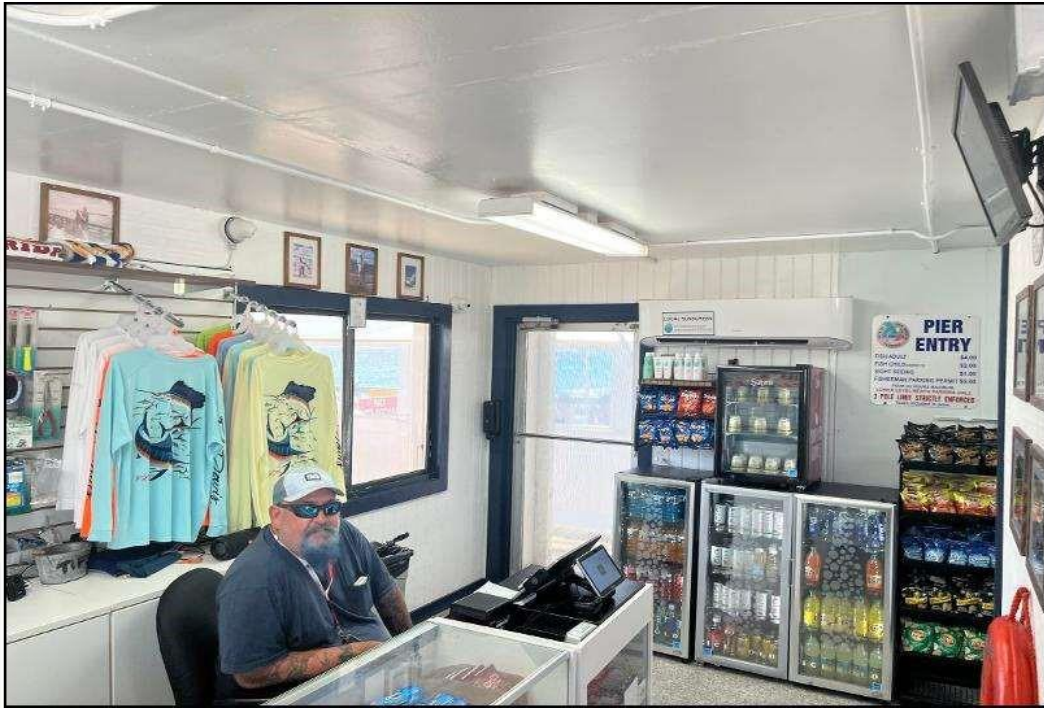


Outdoor Bar Area- Benny's On The Beach



Pier Entrance





Bait Shop

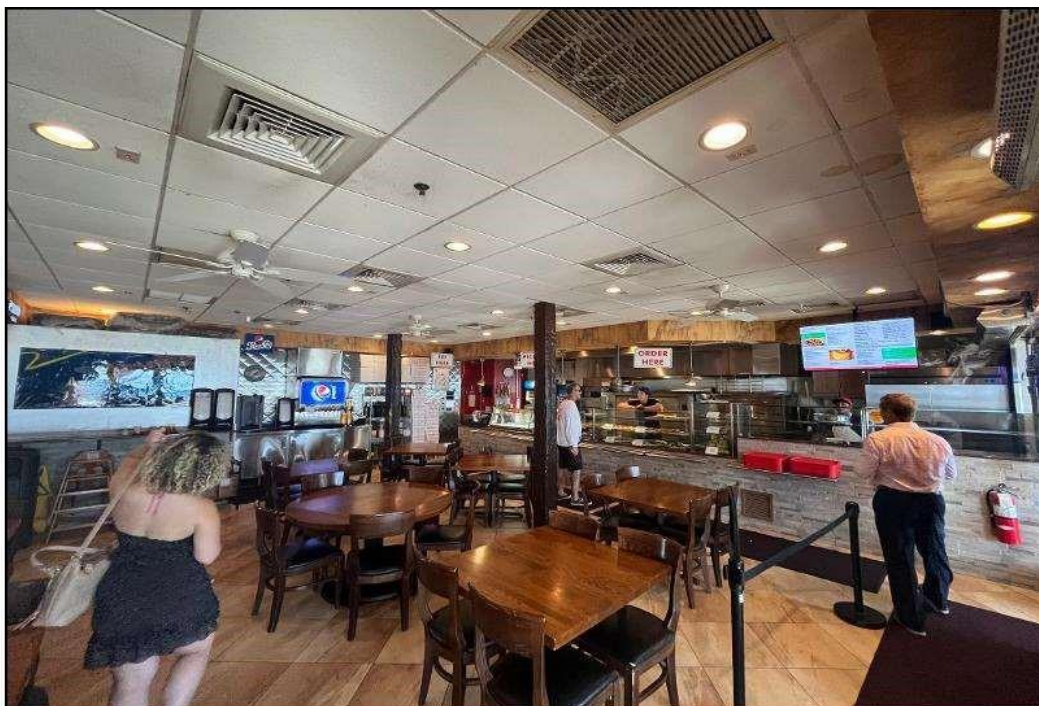


Lake Worth Beach Pier





Mama Mia's Pizzeria

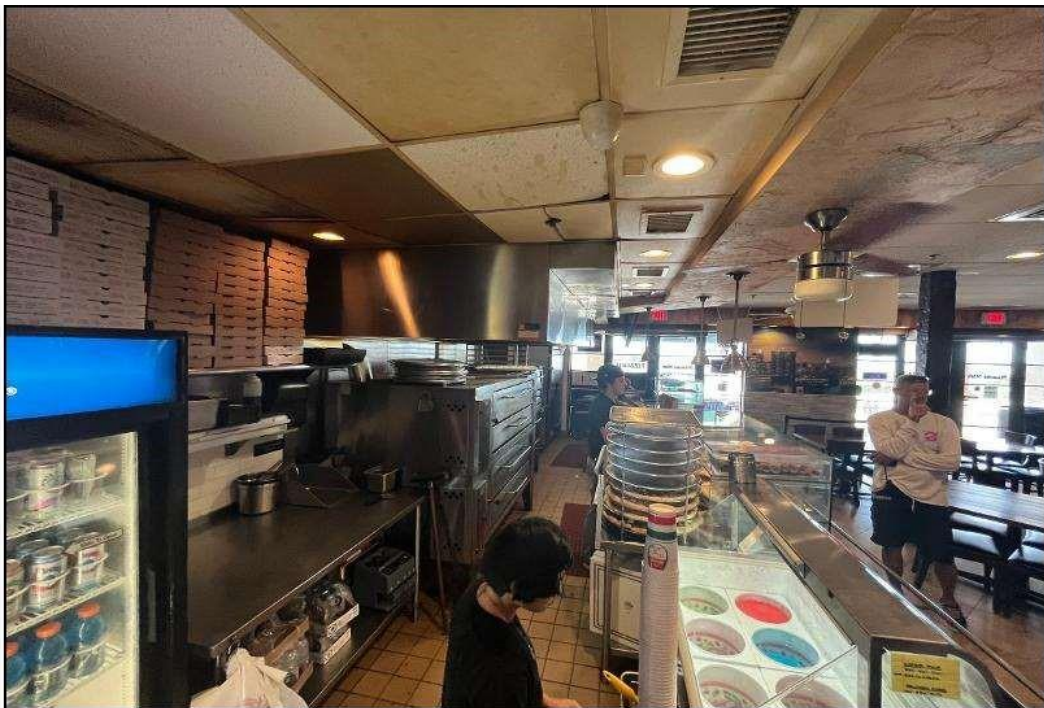


Dining Area- Mama Mia's Pizzeria





Kitchen- Mama Mia's Pizzeria



Counter/Pizza Ovens- Mama Mia's Pizzeria





Outdoor Dining Area- Mama Mia's Pizzeria



Kilwins





Kilwins- Interior



Storage/Prep Area- Kilwins





Freezer- Kilwins



Outdoor Dining Area- Kilwins





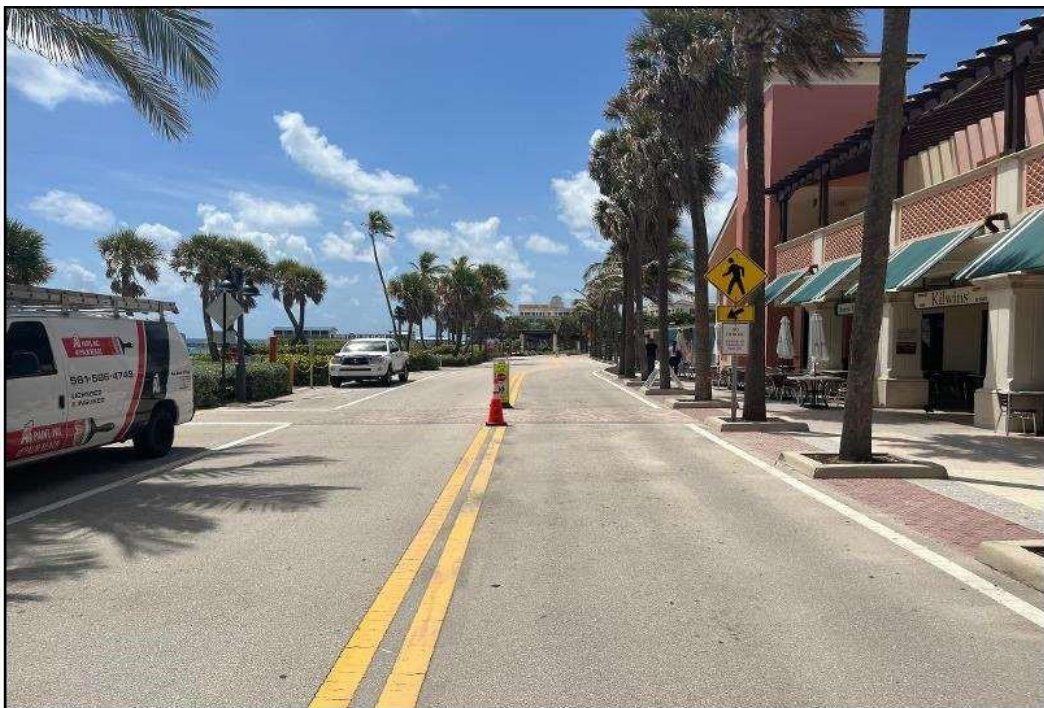
Lake Worth Tee Shirt Co.



Lake Worth Tee Shirt Co.



Lake Worth Tee Shirt Co.



Access Road facing south





Access Road facing north

PURPOSE AND DATE OF REPORT

The purpose of this assignment is to estimate the market rent for negotiating a lease renewal of the subject property as of August 30, 2022.

SUBJECT PREMISES

We have completed a market rent analysis of the subject premises which consists of (4) spaces: Benny’s on the Beach situated on the Lake Worth Beach Pier; a restaurant containing approximately 3,400 square feet of enclosed building area and 4,342 square feet of outdoor dining/bar/patio area, Mama Mia’s Pizzeria situated in the Lake Worth Beach Casino Building; a restaurant space containing approximately 1,332 square feet of enclosed building area and a 436 square foot patio/outdoor dining area, Kilwins; a retail space containing 1,332 square feet of enclosed building area and a 367 square foot outdoor seating/patio area situated in the Lake Worth Beach Casino Building, and Lake Worth Beach Tee Shirt Co.; a retail space containing 1,348 square feet of enclosed building area situated in the Lake Worth Beach Casino Building. The improvements are situated within the Lake Worth Beach Casino and Beach Complex on a site containing a total of approximately 21.41 acres of land area.

The subject premises are located within the Lake Worth Casino and Beach Complex at the eastern terminus of Lake Avenue, on the west side of Lake Worth Public Beach and right side of South Ocean Boulevard in Lake Worth Beach. The property address is 10 South Ocean Boulevard, Lake Worth Beach, Florida.



INTENDED USE AND USER

The intended use of this report is to assist the client and intended user in negotiating a lease renewal(s). The intended user of the report is City of Lake Worth Beach and/or otherwise specified in writing

This report has been prepared utilizing generally accepted appraisal guidelines, techniques, and methodologies as contained within the Uniform Standard of Professional Practice (USPAP), as promulgated by the Appraisal Foundation.

CLIENT

City of Lake Worth Beach c/o Ms.
Lauren Bennett, CPRP
17 South M Street
Lake Worth Beach, FL 33460

DEFINITION OF MARKET RENT

The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements (TIs). (The Dictionary of Real Estate Appraisal, 5th ed., Chicago: Appraisal Institute, 2010)

TYPICAL LESSEE PROFILE

The typical lessee of the subject premises would be a retail, restaurant or other commercial type user.

SCOPE OF ASSIGNMENT

The scope of this assignment encompasses an examination of the subject property and a comparison with other competing space for analysis of market rent.

Rental data was gathered through the use of online services such as MLS, CoStar.com, and Loopnet.com as well as a search of the local market around the subject, discussions with area real estate brokers, Palm Beach County and other local municipalities, property owners and a review of this office’s past appraisal files for similar assignments.

Physical data pertaining to the subject property was obtained from personal inspection and public information sources such as the Palm Beach County Property Appraisers records.

The property was inspected on August 30, 2022. It is assumed that the subject does not suffer from any unapparent conditions that would have a significant impact on its ability to be effectively marketed and leased. Such conditions include



but are not limited to faulty electrical or mechanical systems, roof or plumbing leaks, and the presence of mold or contamination.

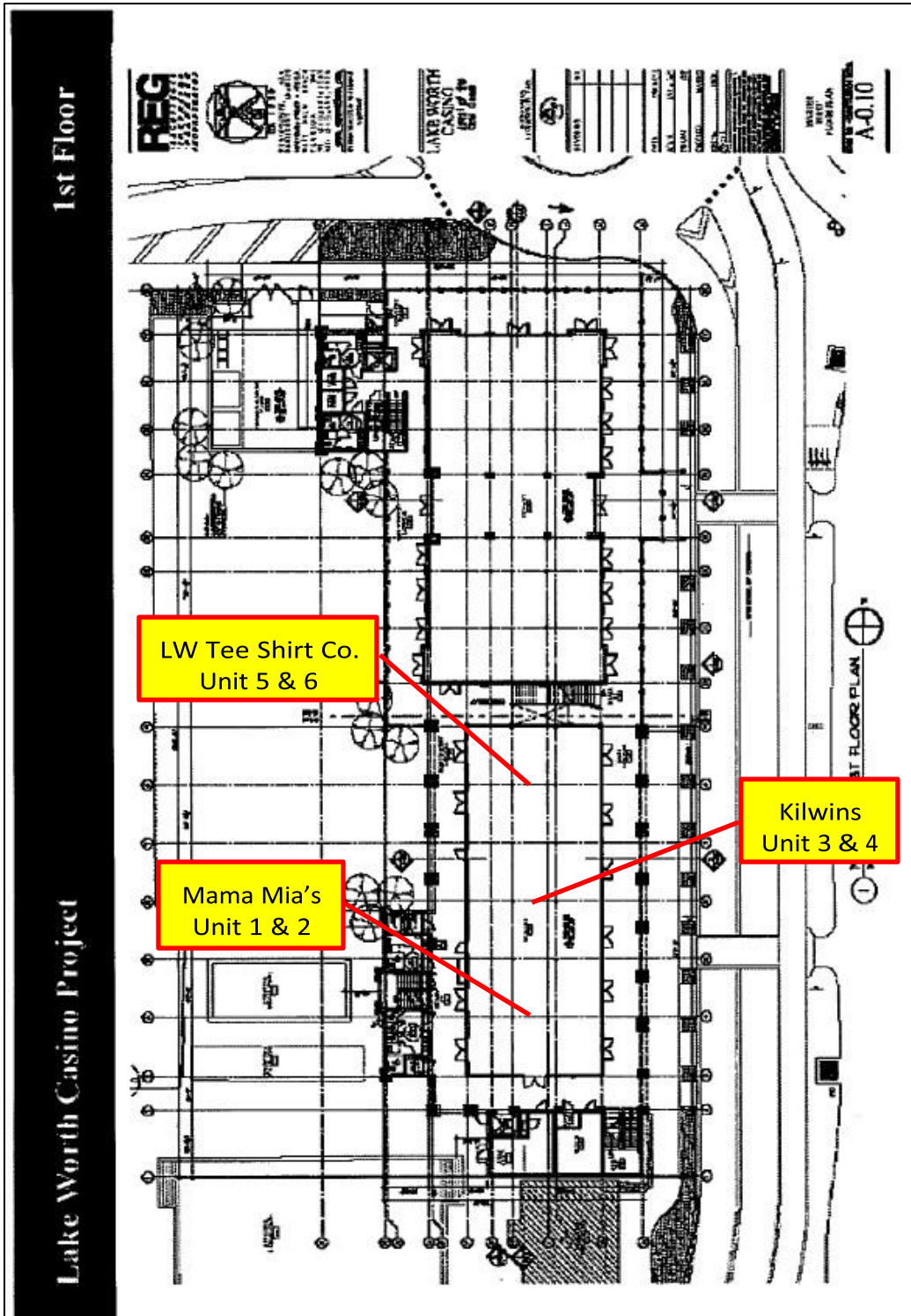
An exterior inspection of the comparables was also made.

We make no warranty as to the authenticity and reliability of representations made by those with whom we verified information. We have relied upon the square footage for the subject unit as provided to us by the client/landlord. We have taken due care in attempting to verify the data utilized in this analysis. We based our analysis and conclusions on overall patterns rather than on specific representations.

The product of our research and analysis is formulated within this report for analysis of and direct comparison with the subject property being analyzed. Additionally, we may have used original research performed in preparation of other appraisals by this office, which is considered appropriate for the subject property.

PREMISES SKETCH (TAKEN FROM ORIGINAL LEASE)





BENNY'S ON THE BEACH (NO SKETCH AVAILABLE)







SUMMARY OF SUBJECT LEASE

(BENNY'S ON THE BEACH)

The following summary was taken from the signed lease and the amendment(s) to said lease provided to the appraisers by the client. This is only a summary of certain provisions of the lease. We suggest that any person with an interest in the lease read the entire lease, which is found in the addendum of this report.

Lessor: City of Lake Worth

Lessee: RTT-Benny's on the Beach, Inc. DBA Benny's on the Beach

Address: 10 South Ocean Boulevard, Lake Worth Beach (on the Pier)

Use of Premises: Restaurant, retail, bait shop

Date of Lease: February 11, 2013 (amended from time to time)

Rent Commencement Date: March 1, 2013

Lease Expiration Date: February 28, 2023

Total SF Leased: Rentable Area: 7,342 square feet
Patio Area: 400 square feet

Current Base Rent: Restaurant: \$240,000 per annum or \$32.69 per square foot

Rental Increase: None

Renewal Options: Renewal Option (1) for 8 years; Renewal Option (2) for 23 months

Comments: Tenant pays real estate tax. Tenant is responsible for garbage collection, repairs and maintenance of the premises and Lake Worth Pier (except replacing wood boards and railings) including pressure washing the Pier once a quarter, collecting entrance fees and maintaining the bait shop to the Pier. Tenant keeps the Pier entrance fees which operates as a management fee to the tenant.

400 SF Patio: \$6,000 per annum or \$15.00 per square foot



SUMMARY OF SUBJECT LEASE

The following summary was taken from the signed lease and the amendment(s) to said lease provided to the

Additional Rent (CAM): Real Estate Taxes (undisclosed amount)

(MAMA MIA'S PIZZERIA)

appraisers by the client. This is only a summary of certain provisions of the lease. We suggest that any person with an interest in the lease read the entire lease, which is found in the addendum of this report.

Lessor: City of Lake Worth

Lessee: Mama Mia's on the Beach, Inc. (Assigned to RVRA, LLC on May 7, 2019)

Address: 10 South Ocean Boulevard, Unit 1 & 2, Lake Worth Beach

Use of Premises: Restaurant

Date of Lease: February 23, 2012 (amended from time to time)

Rent Commencement Date: October 1, 2012

Lease Expiration Date: September 30, 2022

Total SF Leased: Enclosed Area: 1,332 square feet
Patio/Outdoor Dining Area: 436 square feet

Current Base Rent: \$63,531.07 per annum or \$47.696 per square foot
Patio: \$8,039.28 per annum or \$18.44 per square foot

Additional Rent (CAM): \$8.23 per square foot, Real Estate Taxes (undisclosed amount)



SUMMARY OF SUBJECT LEASE

The following summary was taken from the signed lease and the amendment(s) to said lease provided to the

Rental Increase: 3.5% Annually

Renewal Options: (2) for 5 years each

Comments: Tenant pays real estate tax and operating expenses including common area maintenance (CAM). Tenant is responsible for garbage collection, all repairs and maintenance inside the premises including interior walls, storefronts, ceilings, floors, electrical, plumbing, grease traps, fire and life safety protection, and HVAC systems servicing the premises exclusively. The Landlord is responsible for roof, structure and outside walls (excluding store fronts), and portions of electrical and plumbing located outside the exterior boundaries of the premises.

(KILWINS)

appraisers by the client. This is only a summary of certain provisions of the lease. We suggest that any person with an interest in the lease read the entire lease, which is found in the addendum of this report.

Lessor: City of Lake Worth

Lessee: Maxplan Enterprises (Assigned to Pura Vida Treats, Inc. on March 2, 2021) DBA Kilwins

Address: 10 South Ocean Boulevard, Unit 3 & 4, Lake Worth Beach

Use of Premises: Retail

Date of Lease: February 2, 2012 (amended from time to time)



SUMMARY OF SUBJECT LEASE

The following summary was taken from the signed lease and the amendment(s) to said lease provided to the

Rent Commencement Date: October 1, 2012

Lease Expiration Date: September 30, 2022

Total SF Leased: Enclosed Area: 1,332 square feet
Patio/Outdoor Dining Area: 367 square feet

Current Base Rent: \$45,383.90 per annum or \$34.07 per square foot
Patio: \$5,898.96 per annum or \$16.07 per square foot

Additional Rent (CAM): \$13.39 per square foot, Real Estate Taxes (undisclosed amount)

Rental Increase: 3.5% Annually

Renewal Options: (2) for 5 years each

Comments: Tenant pays real estate tax and operating expenses including common area maintenance (CAM). Tenant is responsible for garbage collection, all repairs and maintenance inside the premises including interior walls, storefronts, ceilings, floors, electrical, plumbing, grease traps, fire and life safety protection, and HVAC systems servicing the premises exclusively. The Landlord is responsible for roof, structure and outside walls (excluding store fronts), and portions of electrical and plumbing located outside the exterior boundaries of the premises.

(LAKE WORTH TEE SHIRT CO.)

appraisers by the client. This is only a summary of certain provisions of the lease. We suggest that any person with an interest in the lease read the entire lease, which is found in the addendum of this report.



SUMMARY OF SUBJECT LEASE

The following summary was taken from the signed lease and the amendment(s) to said lease provided to the

Lessor: City of Lake Worth

Lessee: B.F. Enterprises DBA Lake Worth Tee Shirt Company

Address: 10 South Ocean Boulevard, Unit 3 & 4, Lake Worth Beach

Use of Premises: Retail

Date of Lease: June 6, 2012 (amended from time to time)

Rent Commencement Date: November 1, 2012

Lease Expiration Date: October 31, 2017 (First 5 year renewal option exercised)

First Option Expiration Date: October 31, 2022

Total SF Leased: Enclosed Area: 1,348 square feet

Current Base Rent: \$64,301.50 per annum or \$47.70 per square foot

Additional Rent (CAM): \$13.64 per square foot, Real Estate Taxes (undisclosed amount)

Rental Increase: 3.5% Annually

Renewal Options: (3) remaining for 5 years each

Comments: Tenant pays real estate tax and operating expenses including common area maintenance (CAM). Tenant is responsible for garbage collection, all repairs and maintenance inside the premises including interior walls, storefronts, ceilings, floors, electrical, plumbing, grease traps, fire and life safety protection, and HVAC systems servicing the premises exclusively. The Landlord is responsible for roof, structure and outside walls (excluding store fronts), and portions of electrical and plumbing located outside the exterior boundaries of the premises.



MARKET RENT ANALYSIS

Rent Discussion

We have surveyed rents for similar building space in the subject's market area. Rents can be quoted either on a gross basis or a net basis. A net rental basis is where most of the expenses including real estate taxes are passed along to the tenant in the form of a "pass through" charge that is paid in addition to a base rental rate. This charge is commonly referred to as the CAM, or common area maintenance charge. It may include additional expense items such as real estate taxes, insurance costs and management fees, depending on the lease structure.

A gross rental method is where the landlord is responsible for most of the expenses including real estate taxes and the tenant pays one single rental rate. The rents in this market were generally quoted on a net basis. The subject premises are currently renting on a net basis. We have analyzed rents on a net basis in this analysis and projected market rent on a net basis. The appraisers felt this most appropriate as it accounts for the differences in CAM charges among different buildings.

Subject Lease Summary

Benny's On The Beach: The subject premises contains 3,400 square feet of enclosed building area and 4,342 square feet of patio/outdoor dining/bar area. The subject is currently built-out and occupied by a restaurant. There is also a +/-400 square foot "bait shop" where the tenant operates and manages the Lake Worth Pier. The tenant leased the premises beginning on February 11, 2021. The original lease term was for 10 years with two renewal options. The first renewal option is for (1) 8 year term and the second renewal option is for (1) 23 month term. The expiration date of the current base term is February 28, 2023. The current net annual rent is \$240,000 plus \$6,000 for the 400 SF Patio. This equates to \$32.69 per square foot per year and \$15.00 per square foot of patio per year. There are no increases for the current base lease term and the renewal options are subject to the Landlord and Tenant negotiating a fair market rate for the Demised Premises. The Tenant is responsible for operating and maintain the Lake Worth Pier. The tenant is responsible for paying real estate taxes and for repairs and maintenance of the premises and pier, indirect and direct utilities (water, gas, garbage collection, sewer and electricity).

Mama Mia's Pizzeria: The subject premises contains 1,332 square feet of enclosed building area and 436 square feet of patio/outdoor dining area. The current rent rate is \$47.70/SF for the enclosed area and \$18.44/SF for the patio area. The subject is currently built-out and occupied by a pizza restaurant. The tenant leased the premises beginning on February 23, 2012. The original lease term was for 10 years with two 5-year renewal options. The lease was amended a number of times and was Assigned to the current Tenant as of May 7, 2019. There are no increases remaining on the base term and the rent for the renewal options shall increase by 3.5% or fair market rent, whichever is lower. The tenant is also responsible for paying additional rent (CAM). The current CAM charges are \$8.23 per square foot of rentable building area. The tenant is responsible for paying real estate taxes, all repairs and maintenance inside the premises including interior walls, storefronts, ceilings, floors, electrical, plumbing, grease traps, fire and life safety protection, and HVAC systems servicing the premises exclusively. In addition, the Tenant is responsible for indirect and direct utilities (water, gas, garbage collection, sewer and electricity).



Pura Vida Treats, Inc. (Kilwins): The subject premises contains 1,332 square feet of enclosed building area and 367 square feet of patio/outdoor dining area. The current rent rate is \$34.07/SF for the enclosed area and \$16.07/SF for the patio area. The subject is currently built-out and occupied by a retail tenant. The tenant leased the premises beginning on February 2, 2012. The original lease term was for 10 years with two 5-year renewal options. The lease was amended a number of times and was Assigned to the current Tenant as of March 2, 2021. There are no increases remaining on the base term and the rent for the renewal options shall increase by 3.5% or fair market rent, whichever is lower. The tenant is also responsible for paying additional rent (CAM). The current CAM charges are \$13.39 per square foot of rentable building area. The tenant is responsible for paying real estate taxes, all repairs and maintenance inside the premises including interior walls, storefronts, ceilings, floors, electrical, plumbing, fire and life safety protection, and HVAC systems servicing the premises exclusively. In addition, the Tenant is responsible for indirect and direct utilities (water, gas, garbage collection, sewer and electricity).

B.F. Enterprises (Lake Worth Tee Shirt Company): The subject premises contains 1,348 square feet of rentable building area. The current rent rate is \$47.70/SF area. The subject is currently built-out and occupied by a retail tenant. The tenant leased the premises beginning on June 6, 2012. The original lease term was for 5 years with four 5-year renewal options. The Tenant is currently in the fifth year of their first 5-year renewal option. There are no increases remaining on the first renewal term and the rent for the remaining renewal options shall increase by 3.5% or fair market rent, whichever is lower. The tenant is also responsible for paying additional rent (CAM). The current CAM charges are \$13.64 per square foot of rentable building area. The tenant is responsible for paying real estate taxes, all repairs and maintenance inside the premises including interior walls, storefronts, ceilings, floors, electrical, plumbing, fire and life safety protection, and HVAC systems servicing the premises exclusively. In addition, the Tenant is responsible for indirect and direct utilities (water, gas, garbage collection, sewer and electricity).

Rent Roll

Lake Worth Casino and Beach Complex 10 South Ocean Boulevard, Lake Worth Beach, Florida 33460 Rent Roll as of August 2022								
Tenant (Trade Name)	Suite #	Rentable Building Area (SF)	Patio Area (SF)	Total Building Area (SF)	Annual Rent (Building Area)	Rent/SF (Building Area)	Annual Rent (Patio)	Rent/SF (Patio)
Benny's on the Beach	LW Pier	7,342	400	7,742	\$240,000.00	\$32.69	\$6,000.00	\$15.00
Mama Mia's	1 & 2	1,332	436	1,768	\$63,531.07	\$47.70	\$8,039.28	\$18.44
Kilwin's	3 & 4	1,332	367	1,699	\$45,383.90	\$34.07	\$5,898.96	\$16.07
LW Tee Shirt Co.	5 & 6	1,348	N/A	1,348	\$64,301.50	\$47.70	N/A	N/A

Rental Survey

We have surveyed rents for similar building space in the subject’s market area. These market rental rates were then reconciled with the current subject rents to give an indication as to whether the current rental rates achieved by the



subject are within the market norms. The rents in this market were generally quoted on a net basis. As noted previously, the subject is currently renting on a net basis. Accordingly, we have analyzed rents on a net basis.

Our rental survey is composed of a mix of actual rents and asking rents as comparables. The following chart summarizes the data collected in our rent survey along with a map showing their location in relation to the subject property.

ANNUAL RENT COMPARABLES SUMMARY TABLE						
Comp. No.	Address Date of Survey	Rentable Area and Use	Location	Net Annual Rent Per SF a	Lease Date	Comments
1	10 South Ocean Blvd Lake Worth Beach Aug-22	1,768 SF Restaurant	Mama Mia's Pizzeria Lake Worth Casino & Beach Complex	\$47.70	10/1/2012	Tenant pays a net rent of \$47.70/SF for 1,332 SF of enclosed area plus an additional \$18.44/SF for a 436 SF patio. Tenant is responsible for Real Estate Taxes, CAM, utilities, garbage collection, repairs/maintenance, etc. Rent increases 3.5% each year. Currently in year 10 of a 10 year term.
2	10 South Ocean Blvd Lake Worth Beach Aug-22	1,699 SF Retail	Kilwins Lake Worth Casino & Beach Complex	\$34.07	2/12/2012	Tenant pays a net rent of \$34.07/SF for 1,332 SF of enclosed area plus an additional \$16.07/SF for a 367 SF patio. Tenant is responsible for Real Estate Taxes, CAM, utilities, garbage collection, repairs/maintenance, etc. Rent increases 3.5% each year. Currently in year 10 of a 10 year term.
3	10 South Ocean Blvd Lake Worth Beach Aug-22	1,348 SF Retail	Lake Worth Tee Shirt Co. Lake Worth Casino & Beach Complex	\$47.70	11/1/2012 Option 1: 11/1/2017	Tenant pays a net rent of \$47.70/SF for 1,348 SF of enclosed area. Tenant is responsible for Real Estate Taxes, CAM, utilities, garbage collection, repairs/maintenance, etc. Rent increases 3.5% each year. Currently in year 5 of the first 5 year renewal option.
4	10 South Ocean Blvd Lake Worth Beach Aug-22	6,857 SF Restaurant	Viva La Playa Lake Worth Casino & Beach Complex	\$40.89	5/26/2020	Tenant pays a net rent of \$40.89/SF for 5,002 SF of enclosed area plus an additional \$19.08/SF for a 1,855 SF patio. Tenant is responsible for Real Estate Taxes, CAM, utilities, garbage collection, repairs/maintenance, etc. Rent increases 3.5% each year. Currently in year 3 of a 10 year term.
5	601 South SR A1A Jupiter Aug-22	1,300 SF Restaurant	Carlin Park	\$60.00	N/A	RFP for a County owned restaurant space on the ground floor of a 2 story building containing 1,300 SF plus an additional +/-700 SF covered patio area. This rate is the minimum guaranteed annual rent required by the County. The County also requires a monthly Percentage Rent equal to 8% of gross revenues. There will be a 2% annual increase in rent.
6	2345 South Ocean Blvd Palm Beach Aug-22	1,852 SF Restaurant	Al Fresco Town of Palm Beach Par 3 Golf Course	\$80.99	7/1/2013	Tenant pays a guarantee rent of \$150,000/year with a Percentage Rent Clause equal to 10.5% of gross yearly revenue in excess of \$1,500,000. Tenant is responsible for real estate taxes, janitorial, fire prevention and repair/maintenance on FF&E only. Town of Palm Beach is responsible for all utilities and repairs/maintenance to any capital improvements.



RENTAL LOCATION MAP





RENTAL DISCUSSION

All of the comparables are municipal/county owned properties located on or adjacent to the beach/Atlantic Ocean similar in utility when compared to the subject property.

Benny's on the Beach Discussion:

The subject premises is a built-out restaurant situated on the Lake Worth Pier. The current annual rent is \$240,000 or \$32.69/SF plus an additional \$6,000/year for a 400 SF patio (\$15.00/SF). The tenant is responsible for paying the real estate taxes, utilities, garbage collection and repairs/maintenance to the building. In addition, the tenant is responsible for the management and upkeep of the Lake Worth Pier, excluding replacing wood boards and railings. Additionally, the tenant is responsible for collecting entrance fees to the pier at a rate determined by the City and operating the "bait shop." The tenant keeps the entrance fees which operate as a management fee.

Comparables 1, 2, 3 and 4 are all situated within the Lake Worth Casino & Beach Complex and are similar in size, location and appeal when compared to the subject. The average rent of Comparables 1, 2, 3 and 4 is \$42.59/SF on net basis which is higher than what the subject would expect to achieve. Comparable 5 is similar in size and condition, but superior in location. The current minimum rate is \$60.00 per square foot on a net basis which is higher than what the subject would expect to achieve. Comparable 6 is similar in size, but superior in condition and location. The current rate is \$80.00 per square foot on a net basis which is higher than what the subject would expect to achieve. We feel the annual market rent should be in the lower portion of the indicated range set by the comparables.

Mama Mia's Pizzeria Discussion:

The subject premises is a built-out restaurant situated within the Lake Worth Casino & Beach Complex. The current rent is \$47.70/SF plus an additional \$18.44/SF for a 400 SF patio on a net basis. The tenant is responsible for paying the real estate taxes, CAM, utilities, garbage collection and repairs/maintenance to the building.

Comparables 1, 2, 3 and 4 are all situated within the same building as the subject premises and are similar in size, condition and appeal when compared to the subject. The average rent of Comparables 1, 2, 3 and 4 is \$42.59/SF on net basis which is lower than what the subject would expect to achieve. Comparable 5 is similar in size and condition, but superior in location. The current minimum rate is \$60.00 per square foot on a net basis which is higher than what the subject would expect to achieve. Comparable 6 is similar in size, but superior in condition and location. The current rate is \$80.00 per square foot on a net basis which is higher than what the subject would expect to achieve. We feel the annual market rent should be in the middle portion of the indicated range set by the comparables.

Kilwins Discussion:

The subject premises is a retail space situated within the Lake Worth Casino & Beach Complex. The current rent is \$34.07/SF plus an additional \$16.07/SF for a 367 SF patio on a net basis. The tenant is responsible for paying the real estate taxes, CAM, utilities, garbage collection and repairs/maintenance to the building.



Comparables 1, 2, 3 and 4 are all situated within the same building as the subject premises and are similar in size, condition and appeal when compared to the subject. The average rent of Comparables 1, 2, 3 and 4 is \$42.59/SF on net basis which is lower than what the subject would expect to achieve. Comparable 5 is similar in size and condition, but superior in location. The current minimum rate is \$60.00 per square foot on a net basis which is higher than what the subject would expect to achieve. Comparable 6 is similar in size, but superior in condition and location. The current rate is \$80.00 per square foot on a net basis which is higher than what the subject would expect to achieve. We feel the annual market rent should be in the middle portion of the indicated range set by the comparables.

Lake Worth Tee Shirt Co. Discussion:

The subject premises is a retail space situated within the Lake Worth Casino & Beach Complex. The current rent is \$47.70/SF on a net basis. The tenant is responsible for paying the real estate taxes, CAM, utilities, garbage collection and repairs/maintenance to the building.

Comparables 1, 2, 3 and 4 are all situated within the same building as the subject premises and are similar in size, condition and appeal when compared to the subject. The average rent of Comparables 1, 2, 3 and 4 is \$42.59/SF on net basis which is lower than what the subject would expect to achieve. Comparable 5 is similar in size and condition, but superior in location. The current minimum rate is \$60.00 per square foot on a net basis which is higher than what the subject would expect to achieve. Comparable 6 is similar in size, but superior in condition and location. The current rate is \$80.00 per square foot on a net basis which is higher than what the subject would expect to achieve. We feel the annual market rent should be in the middle portion of the indicated range set by the comparables.

Percentage Clause Discussion:

Comparables 5 and 6 are leased spaces in municipally owned buildings. Comparables 5 and 6 include a “Break Through” point at which if and when the gross annual sales exceed a predetermined figure, the rent will be increased at a predetermined percentage.

The development of the subject leases should include a clause minimum rent is set at a percentage of gross sales ranging from 5% to 6%. Based on the percentage of gross sales, we have found that the market typically rents restaurant space based on a minimum rental at around 6% of gross sales. This is prevalent on municipal leases.

Market Rent Conclusion

We have been asked to value the subject properties on an “as-is” basis. We have considered the current condition of the space(s) and forecast rent at a rate we feel appropriate with the consideration that the tenant(s) will lease the space on an “as-is” basis.

Benny’s on the Beach Conclusion:



Based on the preceding, and considering the fact that the Tenant is responsible for the operation and management of the Lake Worth Pier, the appraisers conclude that the first year’s annual market rent of leasable building area is \$33.00 per square foot on a net basis for the enclosed space, bar area, outdoor dining area, tent area and “bait shop” and \$15.00 per square foot on a net basis for the patio area, as of August 30, 2022.

Enclosed space: 7,342 SF of rentable area @ \$33.00 per SF = **\$242,286 per year** Patio space:
400 SF of rentable area @ \$15.00 per SF = **\$6,000 per year**

Combined Gross Annual Income (rounded): \$248,000 per year

Net Monthly Market Rent Conclusion: \$20,666.67 per month

Note that the preceding assumes there is a minimum rent percentage clause of 6% of gross annual sales, and does not include applicable sales tax or CAM charges.

Lake Worth Pier Conclusion:

The tenant provides a service to the City of Lake Worth Beach by operating and maintaining the Lake Worth Pier, therefore; we believe that the tenant should not be charged rent for the Lake Worth Pier.

Mama Mia’s Pizzeria Conclusion:

Based on the preceding, and factoring in the premises being a build out restaurant which typically rent for a higher rate, the appraisers conclude that the first year’s annual market rent of leasable building area is \$50.00 per square foot on a net basis for the enclosed space, and \$15.00 per square foot on a net basis for the patio area, as of August 30, 2022.

Enclosed space: 1,332 SF of rentable area @ \$50.00 per SF = **\$66,600 per year** Patio space:
436 SF of rentable area @ \$15.00 per SF = **\$6,540 per year**

Combined Gross Annual Income (rounded): \$73,000 per year

Net Monthly Market Rent Conclusion: \$6,083.33 per month

Note that the preceding assumes there is a percentage clause of 6% of gross annual sales, and does not include applicable sales tax or CAM charges.



Kilwins Conclusion:

Based on the preceding, the appraisers conclude that the first year's annual market rent of leasable building area is \$45.00 per square foot on a net basis for the enclosed space, and \$15.00 per square foot on a net basis for the patio area, as of August 30, 2022.

Enclosed space: 1,332 SF of rentable area @ \$45.00 per SF = **\$59,940 per year** Patio space:
367 SF of rentable area @ \$15.00 per SF = **\$5,505 per year**

Combined Gross Annual Income (rounded): **\$65,500 per year**

Net Monthly Market Rent Conclusion: **\$5,458.33 per month**

Note that the preceding assumes there is a minimum rent percentage clause of 6% of gross annual sales, and does not include applicable sales tax or CAM charges.



Lake Worth Tee Shirt Co. Conclusion:

Based on the preceding, the appraisers conclude that the first year's annual market rent of leasable building area is \$45.00 per square foot on a net basis for the enclosed space, as of August 30, 2022.

Enclosed space: 1,348 SF of rentable area @ \$45.00 per SF = **\$60,660 per year**

Combined Gross Annual Income (rounded): **\$61,000 per year**

Net Monthly Market Rent Conclusion: **\$5,083.33 per month**

Note that the preceding assumes there is a minimum rent percentage clause of 6% of gross annual sales, and does not include applicable sales tax or CAM charges.

