

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: March 2, 2021

DEPARTMENT: City Attorney

TITLE:

Second Amendment to Retail Lease with Maxplan Enterprises, Inc., d/b/a Kilwins Chocolates and Ice Cream

SUMMARY:

The Second Amendment to the Retail Lease with Maxplan Enterprises, Inc., d/b/a Kilwins Chocolates and Ice Cream (“Kilwins”) seeks authorization from the City to assign the Lease to Pura Vida Treats, Inc., d/b/a Kilwins Chocolates & Ice Cream Lake Worth Beach with related amendments to the Retail Lease.

BACKGROUND AND JUSTIFICATION:

On February 2, 2012, the City and Kilwins entered a retail lease for Units #3 and #4 at the Lake Worth Beach Municipal Casino Building (“Lease”). The Lease provided an initial term of ten (10) years with two (2) five (5) year options for renewal. On August 13, 2020, the City and Kilwins amended the Lease to address conditions related to the COVID-19 pandemic. In January 2021, Kilwins approached the City about an assignment of the Lease Pure Vida Treats, Inc., which would take over the Premises but continue to operate the location as Kilwins Chocolates & Ice Cream Lake Worth Beach. Kilwins also requested that the City waive Section 6.3 of the Lease, by which the Landlord would waive its right to receive any profits received by Kilwins as a result of the assignment of the Lease. Consistent with the prior assignment of similar leases at the Casino Building, Kilwins and Pura Vida Treats have submitted the following:

- A cover letter providing the name and address of the proposed assignee and continued use as a chocolates and ice cream operation;
- A copy of the executed purchase and sale agreement;
- Financial information on Pura Vida Treats, the new operator;
- Updated certificates of insurance;
- New security deposit amount of \$7,563.98 (two months’ rent);
- The \$1,000 administrative fee required to be paid to the City for the consideration of the assignment; and,
- \$1,164.20 to cover the City Attorney’s fees for reviewing the request and preparing the Second Amendment to the lease.

In order to document the proposed assignment and related revisions to the Lease, the City Attorney has prepared the attached Second Amendment to the Lease. The proposed Second Amendment provides the City’s consent to the assignment and release of Kilwins and waives Section 6.3 of the Lease. The other revisions to the Lease are to maintain the current rental

payments with a 3.5% annual increase and increase in patio rental rate. The term of the Lease is not being changed by the Second Amendment.

MOTION:

Move to approve / not approve the Second Amendment to Retail Lease with Maxplan Enterprises, Inc., d/b/a Kilwins Chocolates and Ice Cream

ATTACHMENT(S):

Fiscal Impact Analysis (not applicable)
Second Amendment to Retail Lease