

EXECUTIVE BRIEF REGULAR MEETING

AGENDA DATE: May 19, 2020

DEPARTMENT: City Manager

TITLE:

Second Amendment to Lease with RTT-Benny's on the Beach, Inc.

SUMMARY:

The Second Amendment to the Lease with RTT-Benny's on the Beach, Inc. ("Benny's") seeks to address issues related to COVID-19 restrictions. This item is a related item to the Second Amendment to the Lease with Mulligan's.

BACKGROUND AND JUSTIFICATION:

On February 11, 2013, the City and Benny's entered a lease for the location on the Lake Worth Beach Municipal Pier ("Pier") for use as a restaurant with incidental pier management, retail sales, and a bait shop. On August 5, 2015, the City and Benny's amended the lease (First Amendment) to address Benny's use of the additional outdoor patio area. 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 Benny's having to close the leased premises on March 20, 2020 except for take-out and delivery services. On May 11, 2020, the Governor through Executive Order 20-120 (based on Executive Order 20-112) authorized restaurants to re-open indoor premise service so long as the restaurants adopted appropriate social distancing measures and limited the indoor occupancy to no more than 25 percent of a restaurant's building occupancy. This Executive Order also allowed restaurants to start serving their 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 restaurants.

In order to document the proposed lease amendments, the City Manager and City Attorney have been working on a draft Second Amendment to the Lease with Benny's. At this point, the proposed Second Amendment is not yet finalized but should be finalized before the meeting. The proposed Second Amendment will address some of the following:

- Payment of rent in through possibly May 2020;
- Provisions addressing potential COVID-19 restrictions which may include:
 - Rent deferment; and/or,
 - Rent abatement.

While the City retains the absolute discretion as to whether to amend the Lease with Benny's, City staff is supportive of the considering the amendment in view of its good

working relationship with Benny's and Lee Lipton's desire to take over and renovate Mulligan's.

MOTION:

Move to approve / not approve the Second Amendment to Lease with RTT-Benny's on the Beach, Inc.

ATTACHMENT(S):

Fiscal Impact Analysis - n/a

Second Amendment (to be provided upon conclusion of negotiations)