

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

