

4B-3

Agenda Item #:

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 4, 2019 [] Consent [X] Regular
[] Ordinance [] Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff requests Board direction: regarding the Lease Agreement with LJL Food Management, Inc., d/b/a Tina's Cafe (R2002-0829).

Summary: On January 15, 2019, the Board approved a Sixth Amendment (R2019-0155) which would extend the term for one year through January 31, 2020 rather than conduct a new Request For Proposals (RFP). Tina's Café is unwilling to accept a simple one (1) year extension. While Tina's has indicated they plan to do \$50,000 in renovations and a one (1) year extension does not provide sufficient time for Tina's to recoup their investment, it has not provided staff with any documentation as to the improvements to be made or the length of extension desired. If the Board desires to further extend the term of the Lease, Board direction will be required on the following terms: **i)** length of extension; **ii)** minimum required level of investment in improvements; **iii)** a deadline for completing said improvements; and **iv)** the rental rate. (PREM) Countywide (HJF)

Background & Policy Issues: At the January 15, 2019 Board meeting (Agenda Item 5B-1), staff recommended that the County issue a RFP for provision of sit down food service at the Governmental Center, and that Tina's be allowed to respond to that RFP. The Board voted to not conduct a new RFP and instead simply extended the term of the Lease for one year. Staff prepared an amendment to the Lease upon those terms. Tina's objected to only receiving a one year extension. Tina's indicated that they plan to do \$50,000 in improvements and would not be willing to make that investment in their operations without having a longer extension. While staff agrees that one year is not sufficient time to recoup their additional investment, staff recommends against giving Tina's a longer extension. Tina's has a long history of poor performance of their obligations under the Lease. Tina's has not submitted its 2018 report on their operating performance which was due in March, but their 2017 report indicates they are losing money. In addition, Tina's currently has \$26,561.94 in outstanding liens against their business. The continued viability of their business is questionable. Staff suspects that Tina's motivation for requesting a longer term is to increase the marketability of its business for a sale. Tina's has previously attempted to sell their business, but staff informed both Tina's and prospective buyers that a sale would require the Board's approval and that staff would recommend issuing a RFP for selection of a new vendor. If the Board desires to grant a further extension, staff requests Board direction on the terms of such an extension.

Attachments:

1. Location Map
2. September 12, 2017 Agenda Item Summary 5A-1 (without attachments)
3. January 15, 2019 Agenda Item Summary 5B-1(without attachments)
4. Tina's 2017 annual financial report

Recommended By: RCJ Arroyo Department Director 5/17/19 Date

Approved By: _____ County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2019 | 2020 | 2021 | 2022 | 2023 |
|--|-----------|-----------|-----------|-----------|-----------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | \$0 _____ | \$0 _____ | \$0 _____ | \$0 _____ | \$0 _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | \$0 _____ | \$0 _____ | \$0 _____ | \$0 _____ | \$0 _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |

Is Item Included in Current Budget: Yes _____ No _____

Does this item include the use of federal funds? Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

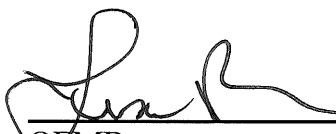
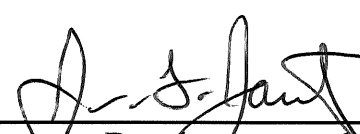
No fiscal impact for this item. If the Board approves an amendment to the lease, the fiscal impact will be reported with that item.

Fixed Assets Number N/A

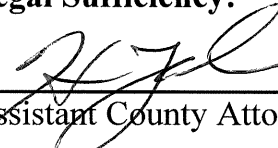
C. Departmental Fiscal Review:  _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

| | | | |
|--|------------------------|---|-----------------------|
|  _____ OFMB | 5/23/19 5/22 9/5/22 |  _____ Contract Development and Control | 5/24/19 5/24/19 TW |
|--|------------------------|---|-----------------------|

B. Legal Sufficiency:

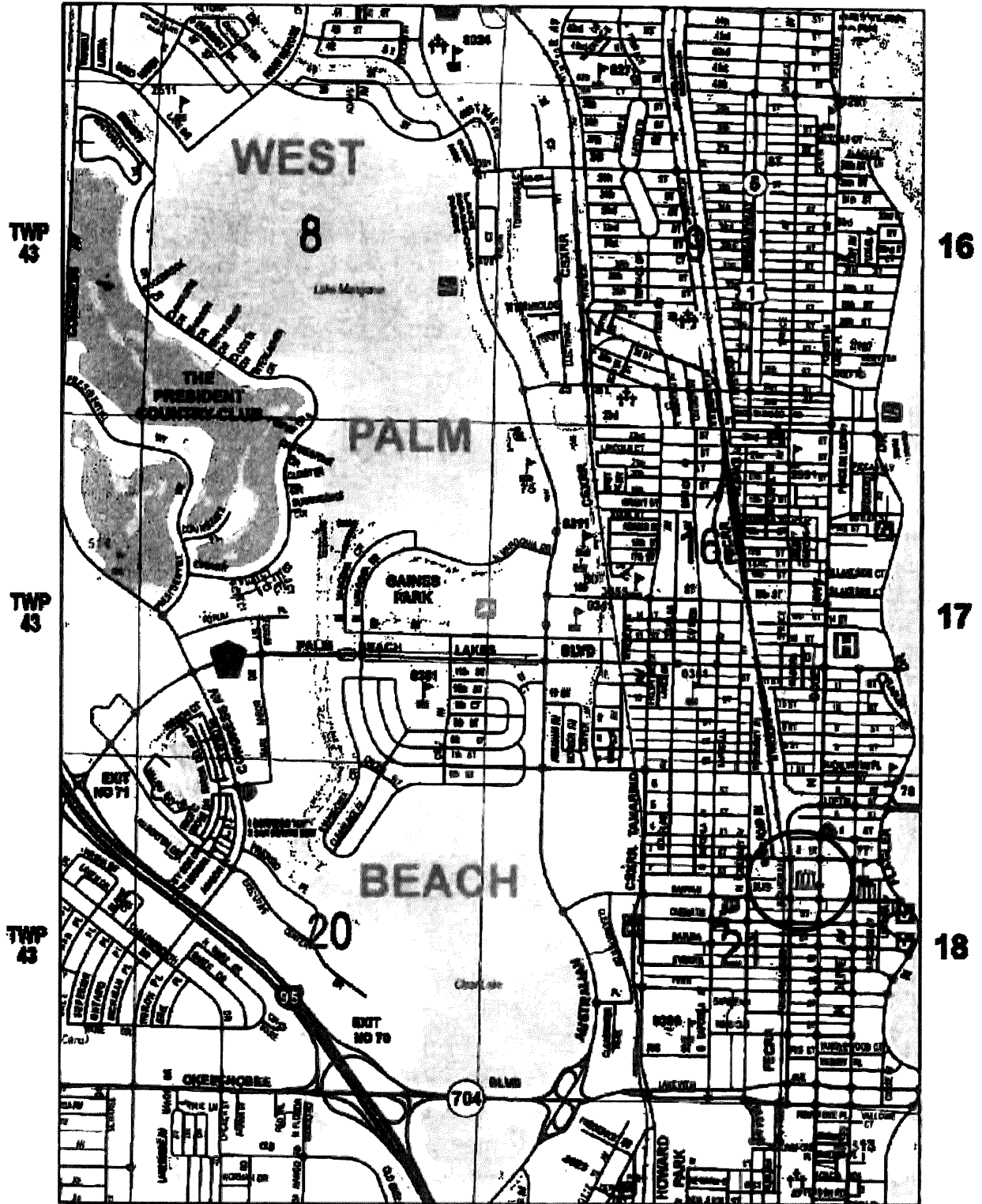


 Assistant County Attorney
 5/28/19

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.



LOCATION MAP



ATTACHMENT #2

September 12, 2017 Agenda Item Summary 5A-1 3pages (without attachments)

Agenda Item #: SA-1
MM/MB 7-0

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: September 12, 2017 [] Consent [X] Regular **APPROVED**
[] Ordinance BY BOARD OF COUNTY COMMISSIONERS
AT MEETING OF SEP 16 2017
Department: Facilities Development & Operations
MINUTES & RECORDS SECTION

I. EXECUTIVE BRIEF

Motion and Title: Staff requests Board direction: regarding the status of Governmental Center Lease Agreement with LJL Food Management, Inc. (R2002-0829) for the lease of restaurant space within the Governmental Center Parking Garage.

Summary: LJL Food Management, Inc., d/b/a Tina's Café has been the food service provider operating in Suite 110 of the Governmental Center Parking Garage since 2005. Tina's Café has a long history of delinquent rental payments notwithstanding a low/reduced rental rate (\$6.50/s.f.) As of August 2017 Tina's Café is eight months in arrears (January to August) totaling \$11,067.36, not including sales tax or late payment interest. Staff has sent numerous default letters and has received no response. Tina's Cafe' also has an unpaid balance of \$24,630.40 in tax liens that is owed to the Department of Revenue and a judgment in the amount of \$12,873.00 owed to Cheney Bros, Inc. Staff is recommending that the Board pursue legal action for non-payment of rent including termination of the Lease. There are several County Departments, including Public Affairs/Channel 20 that have needs for additional office space in the Government Center. Staff is also reviewing alternatives for provision of convenience food services, including high quality vending machines and food trucks. (PREM) Countywide (HJF)

Background & Policy Issues: In 2001, Staff issued an RFP to lease 1,504 SF for operation of a restaurant and LJL Food Management, Inc. d/b/a Cher's Café, was the only respondent. On May 21, 2002 (R2002-0829), the Board approved a Government Center Lease Agreement for 5 years with one option for 5 years. The initial rent was \$18,012/yr. (\$11.98/SF) and the Lease provided for 4% annual rent adjustments each September 1st. On October 18, 2005 (R2005-2020), the Board approved a Consent to Change of Ownership to LJL Food Management, Inc., d/b/a Tina's Café. On July 11, 2006 (R2006-1258), Tina's exercised the 5-year option to extend the term to August 31, 2011. On January 13, 2009 (R2009-0146), the Board approved the First Amendment that extended the term of the Lease for ten (10) years until January 31, 2019; increased the space from 1,504 SF to 2,554 SF; and reduced the annual rental SF rate by \$3.26 from \$15.76/SF to \$12.50/SF (\$31,925.00/yr.) for two (2) years. On March 23, 2010 the Board approved the Second Amendment (R2010-0436) which reduced the then current rent by half from \$33,202.00/yr. (\$12.50/SF) to \$16,601.00/yr. (\$6.25/SF) retroactively January 2010 until December 31, 2011; and deferred three (3) months of past due rental payments (November and December of 2009 and January of 2010) totaling \$6,917.08 until January 2019.

(continued on page 3)

Attachments:

- 1. Location Map
- 2. Outstanding Liens and Judgement
- 3. Fiscal Impact Rent Calculation Sheet

Recommended By: [Signature] Department Director 8/13/17 Date

Approved By: [Signature] County Administrator 8/31/17 Date

ATTACHMENT NO. 2

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|------------------|-----------------|------------------|--------------------|---------------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | <u>\$7,451</u> | <u>\$16,601</u> | <u>\$12,451</u> | _____ | _____ |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | * <u>\$7,451</u> | <u>\$16,601</u> | <u>\$12,451</u> | <u>\$ -0-</u> | <u>\$ -0-</u> |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |
| Is Item Included in Current Budget: ^{and Proposed} | Yes _____ | No <u>X</u> | | | |
| Budget Account No: | Fund <u>0001</u> | Dept <u>410</u> | Unit <u>4240</u> | Object <u>6225</u> | |
| | Program _____ | | | | |

B. Recommended Sources of Funds/Summary of Fiscal Impact:

*The above fiscal impact is based upon the Board terminating the Lease effective 09/30/17, Tina's Café not remitting any further payments and the \$5,000.00 cash security deposit on file being applied toward FY17 delinquencies; see the attached calculation sheet for further details.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

[Signature] 8/23/17
OFMB Ex 8/21 to 8/22

[Signature] 8/31/17
Contract Development and Control

B. Legal Sufficiency:

[Signature] 8/31/17
Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

Background & Policy Issues (cont'd.): On April 3, 2012 (item #4C-1), Staff requested Board direction due to Tina's poor payment history and was directed to continue the same half rent (\$16,601/yr or \$6.50/SF) to April 30, 2013, and suspend the 4% annual rent adjustment; accordingly, the Third Amendment dated December 18, 2012 (R2012-1941), accomplished this. The Fourth Amendment dated June 4, 2013 (R2013-0711) continued the same half rent (\$16,601/yr or \$6.50/SF) until April 30, 2014, and also suspended the 4% annual rent adjustment. Further, the Fourth Amendment required Tina's Cafe to advise Staff by the end of February 2014 if they could return to full rent or if a continuation of half rent was necessary; however, Tina's did not advise Staff of either option. The Board approved the Fifth Amendment dated July 22, 2014 (R2014-1092) which provides for the continuance of the reduced rental rate of \$16,601.00/yr. (\$6.50/SF) until the end of the Lease term, January 31, 2019.

In 2014 prior to the Board approving the Fifth Amendment, Tina's Café was already four (4) months in arrears on rental payment, which continued until November of 2014. In November of 2014 a payment of \$11,731.44 was remitted and applied to rental payments for the months of April through November of 2014; late payment interest was not included. December's 2014 rental payment was paid in time; but from January through September of 2015 no rental payments were remitted until late September 2015. The amount received paid the rental payments through the month of October 2015; late payment interest was not included. Rental payments from October of 2015 through September of 2016 were remitted in a timely manner; but from October through December of 2016, rental payments were late. In February of 2017, a payment of \$1,466.43 was remitted and applied to the December 2016 rental payment. As of August, 2017, no rental payment has been received for the months of January through July of 2017. Total amount in arrears is \$11,067.36, for the months of January through August of 2017; not including sales tax or late payment interest.

Early this year, PREM was contacted by several parties who were negotiating with Tina's Café to purchase the business. On March 1, 2017, Staff sent notice to Tina's Cafe' that pursuant to Article XII of the Lease a written consent from the County must be received prior to any such transaction. Tina's Café has also failed to submit their annual financial report and maintain insurance as required by the Lease. Currently there is an outstanding balance of \$24,630.40 in tax liens that is owed to the Department of Revenue and a judgment in the amount of \$12,873.00 owed to Cheney Bros, Inc. Staff is seeking Board direction whether to pursue legal action, including termination.

There are several County Departments that are in need of additional office space, including Public Affairs/Channel 20. If the Board would be willing to forgo the convenience of having a restaurant within the Governmental Center, termination of this Lease would free up space for Departmental uses.

Staff is reviewing alternative methods of providing convenience food service, including installing high quality vending machines in the lobby of the governmental center and contracting with multiple food truck vendors to operate on a rotating basis either in the breeze way off of Olive Avenue or in the 4th Street parking lot. Staff has also received numerous inquiries from vendors desiring to operate a deli or restaurant in this space and who are willing to purchase LJL's interest in the Lease, provided they can receive an extension of the Lease. Staff does not recommend extending the Lease without conducting a new competitive selection process. Staff is seeking direction from the Board as to whether the Board desires to continue with a sit down restaurant or switch to vending machine and food truck operations.

ATTACHMENT #3

January 15, 2019 Agenda Item Summary 5B-1 3 pages (without attachments)

5B-1

Agenda Item #:

DK/GW 4-3
MM, RW, HV opposed
R-2019-0154
and
R-2019-0155

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: **January 15, 2019** [] Consent [X] Regular AS Amended
[] Ordinance [] Public Hearing

Department: **Facilities Development & Operations**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) adopt a resolution authorizing a nine (9) month extension of the term of the Governmental Center Lease Agreement with LJL Food Management, Inc., a Florida Corporation, d/b/a Tina's Caf ;
- B) approve a Sixth Amendment to the Governmental Center Lease Agreement with Tina's Caf 's (R2002-0829); and
- C) direct staff to conduct a new RFP for food service operations at the Robert Weisman Palm Beach County Governmental Center.

Summary: LJL Food Management, Inc., d/b/a Tina's Caf , has been the food service provider operating in the Governmental Center Parking Garage since 2005. The current Lease Agreement with Tina's Caf  will expire on January 31, 2019. On October 16, 2018, (Agenda Item 5D-4) the Board did not support staff's recommendation to allow the lease to expire and convert the space for use by County Departments. The Board indicated that a full service restaurant is an important amenity for the Governmental Center. The Board requested that Tina's provide more detailed information on its capital expenditures to assist the Board in deciding whether to extend the Lease with Tina's or issue a new RFP. On November 13, 2018 Tina's responded with the letter attached to this agenda item as Attachment 2 which included a petition of support for extending the Lease with Tina's and identified expenses of approximately \$20,000 to bring a Fire Suppression system up to code, and cited various other maintenance expenses of \$10,000 without providing any supporting documentation. Staff reviewed Tina's claimed expenses against our records. On January 6, 2012 and again on February 25, 2015 Tina's was cited by West Palm Beach Fire Department for continued code violations associated with its fire suppression system. According to building permits, the cost to cure these violations was \$4,849. Annual financial statements which Tina's is required to provide identify annual repairs and maintenance expenditures of \$7,187 in 2017, \$6,432 in 2016, \$12,140, in 2015 and \$6,835 in 2014. Staff recommends that the County conduct an open and competitive RFP process for selection of a food service vendor. Typically the County promotes periodic rebidding of County service contracts to provide opportunities to new vendors to compete for County contracts. This vendor has been in place for 13 years. Additionally, there is a long history of Tina's defaulting on payment of rent (even after rental reductions) and otherwise failing to comply with its obligations under the Lease. Currently, Tina's is late paying rent for December and is required to pay \$6,917 of deferred rent on January 1, 2019. Conducting a new competitive RFP will identify whether other vendors could provide better meal selection, service and pricing, and would also ensure that the rental rate is competitive. **(PREM) Countywide (HJF)**

(continued on page 3)

Attachments:

1. Location Map
2. Letter from Tina's in support of its extension request
3. Resolution
4. Sixth Amendment
5. September 12, 2017 Agenda Item 5A-1
6. Letter to Tina's regarding deferred rent

Recommended By:  **Department Director** 12/10/18
Date

Approved By:  **County Administrator** 1/3/19
Date

ATTACHMENT NO: 3

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2019 | 2020 | 2021 | 2022 | 2023 |
|--|-------------------|------------------|------------|------------|------------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | (\$11,067) | (\$1,383) | \$0 | \$0 | \$0 |
| Program Income (County) | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT | <u>(\$11,067)</u> | <u>(\$1,383)</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |

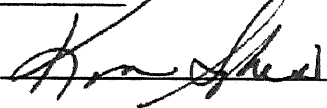
Is Item Included in Current Budget: Yes No

Does this item include the use of federal funds? Yes No

Budget Account No: Fund 0001 Dept 410 Unit 4240 Object 6225
 Program _____


B. Recommended Sources of Funds/Summary of Fiscal Impact:

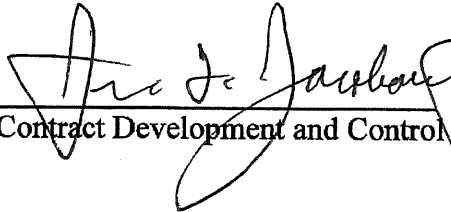
Fixed Assets Number N/A

C. Departmental Fiscal Review: 

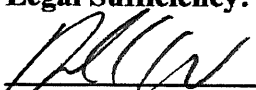
III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

 12/21/18
 OFMB
 12/21 12/21

 12/20/18
 Contract Development and Control

B. Legal Sufficiency:

 12/31/18
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Background & Policy Issues: There is a long history of poor performance by Tina's Café as described in detail in the attached September 12, 2017 agenda item. In 2016 and 2017, PREM was contacted by several parties who were negotiating with Tina's Café to purchase the business. On March 1, 2017, staff sent notice to Tina's Café that pursuant to Article XII of the Lease, written consent from the County must be received prior to any sale/assignment of the Lease. A long term extension of the Lease with Tina's would enable Tina's to sell its business and make it more difficult for the County to object to a new vendor taking over. Staff recommends that the County retain sole control over selection of an operator by conducting an RFP process. Staff recommends that Tina's be allowed to respond to the RFP. A 9 month extension of this Lease will provide time to conduct the RFP process and allow Tina's to continue providing service in the interim.

Currently there is an outstanding balance of \$35,983.08 in tax liens that is owed to the Department of Revenue and two judgments against Tina's Café: one for \$12,873.00 owed to Cheney Bros, Inc. and the other \$13,688.94 owed to Gordon Food Services, Inc. In addition, pursuant to the Second Amendment (R2010-0436), the \$6,917.08 of deferred rent for November and December of 2009 and January of 2010, is due in January of 2019.

Tina's
Profit & Loss
January through December 2017

Jan - Dec 17

| | |
|--|------------------|
| Ordinary Income/Expense | |
| Income | |
| 3100 · Sales | 187,305.51 |
| 3500 · Discounts & credit cards | -423.91 |
| Total Income | 186,881.60 |
| Cost of Goods Sold | |
| 4150 · Food purchases | 50,457.83 |
| 4155 · Beverages | 5,898.87 |
| 4160 · Tobacco | 1,650.00 |
| 4320 · Truck & auto | 2,178.11 |
| 4610 · Supplies | 39,231.20 |
| Total COGS | 99,416.01 |
| Gross Profit | 87,465.59 |
| Expense | |
| 6005 · Amortization exp | 2,584.00 |
| 6020 · Advertising & promotion | 5,888.07 |
| 6070 · Bank service charges | 8,871.77 |
| 6160 · Equipment rental | 1,300.00 |
| 6289 · Insurance Expense | |
| 6291 · Liability | 3,022.89 |
| Total 6289 · Insurance Expense | 3,022.89 |
| 6410 · Office expenses | 734.60 |
| 6450 · Outside services | 3,375.90 |
| 6500 · Professional Fees | |
| 6505 · Accounting | 1,083.00 |
| 6510 · Legal | 8,933.35 |
| Total 6500 · Professional Fees | 10,016.35 |
| 6600 · Rent expense | 20,229.00 |
| 6610 · Repairs & maintenance | |
| 6625 · Building | 7,187.46 |
| Total 6610 · Repairs & maintenance | 7,187.46 |
| 6670 · Salaries- Officer | 7,800.00 |
| 6700 · Travel & entertainment | |
| 6810 · Meals | 1,249.51 |
| Total 6700 · Travel & entertainment | 1,249.51 |
| 6730 · Licenses & permits | 595.25 |
| 6750 · Telephone & internet | 7,118.06 |
| 6850 · Utilities | |
| 6851 · Gas & electric | 14,752.29 |
| Total 6850 · Utilities | 14,752.29 |
| Total Expense | 94,725.15 |
| Net Ordinary Income | -7,259.56 |
| Net Income | <u>-7,259.56</u> |