



Cover Memorandum/Staff Report

File #: 20-295

Agenda Date: 5/5/2020

Item #: 8.A.

TO: Mayor and Commissioners
FROM: Marie Kalka, Finance Director
THROUGH: George Gretsas, City Manager
DATE: May 5, 2020

DISCUSSION AND DIRECTION REGARDING THE HANDLING OF REQUESTS RECEIVED FOR EXCUSAL OF PAYMENTS BASED ON INVOCATION OF FORCE MAJEURE CONTRACTUAL PROVISIONS

Recommended Action:

Staff seeks direction regarding the handling of requests received for excusal of payments based on invocation of force majeure contractual provisions.

Background:

On March 13, 2020, the City of Delray Beach (the City) declared a local state of emergency due to COVID19. Thereafter, on March 20, 2020, the City mandated closure of non-essential commercial and retail establishments. Due to the City's mandates, several businesses have requested excusal of payments owed the City by invoking the Force Majeure provision of their contracts. The businesses currently requesting excusal are as follows:

Delray Yacht Cruises entered into an Agreement with the City on July 19, 2018. Pursuant to the Agreement, Delray Yacht Cruises is required to submit payment to the City in the amount of \$10,000 on a monthly basis. On March 24, 2020, Delray Yacht Cruises submitted a request to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

Creative City Collaborative entered into a Lease Agreement with the City on December 8, 2016. Pursuant to the Lease Agreement, CCC is responsible to pay base annual rent in the amount of \$946.30 on a monthly basis. On March 31, 2020, Marjory Waldo, on behalf of CCC, submitted a request to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

Taverna Opa entered into a Parking License Agreement with the City dated October 29, 2019 and renewed on March 3, 2020. As part of this Agreement, Taverna Opa is required to submit payment each month in the amount of \$1078.56 for its use of six (6) parking spaces located on Atlantic Avenue. On March 6, 2020, Tavern Opa submitted a request to the City to excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

Cut 432 entered into a Parking License Agreement with the City dated October 29, 2019 and renewed on March 3, 2020 to provide valet parking services. As part of this Agreement, Cut 432 is required to submit payment each month in the amount of \$539.28 for its use of three (3) parking spaces located on Atlantic Avenue. On April 15, 2020, Cut 432 submitted a request to the City to

excuse payment due to the restrictions imposed by the City pursuant to its local state of emergency.

City Attorney Review:

Approved as to form and sufficiency.

Funding Source/Financial Impact:

Below are the monthly amounts due from each Lessee:

Entity	Monthly Amount
Delray Yacht Cruises	\$10,000
Arts Garage	\$946.30
Taverna Opa	\$1,078.56
Cut 432	539.28

Timing of Request:

Payments were due on April 1st and have been deferred pending direction from the Commission.