

RESOLUTION NO. 16-219

A RESOLUTION OF THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY (CRA) APPROVING THE ATTACHED THIRD AMENDMENT TO LEASE AGREEMENT BETWEEN THE CRA AND TIM WEGMAN D/B/A THE PIANO SHOP (GOOD DAY ON A HAPPY PLANET) FOR THE PROPERTY LOCATED AT 907 CAROLINE STREET; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Resolution No. 06-215, the CRA approved a Lease Agreement with Tim Wegman d/b/a The Piano Shop, and in Resolutions No. 07-013 and 11-349 the Lease Agreement was amended; and

WHEREAS, during the months of January through June, 2016, significant construction occurred in front of and/or adjacent to 907 Caroline Street, and the tenant's business was negatively impacted by the City's construction project. Accordingly, the tenant requested a 50% reimbursement of rent paid for the months of January, February and March, 2016, and a 100% reimbursement of rent paid for the months of April, May and June, 2016 as compensation for a portion of their losses; and

WHEREAS, the tenant additionally requested to extend the lease, which is due to expire on June 30, 2016, including an abatement of 100% of the rental rate, to allow liquidation of inventory in preparation for closing the business; and

WHEREAS, at its meeting of June 15, 2016, the Key West Bight Management District Board recommended a lease amendment to include (1) month-to-month extension of the lease, (2) Rent reimbursement to the tenant in the amount of \$11,298.65, and (3) 100% rent abatement for July, August and September, 2016, to allow the tenant to liquidate their inventory in preparation of closing their business; and

NOW, THEREFORE, BE IT RESOLVED BY THE CAROLINE STREET CORRIDOR AND BAHAMA VILLAGE COMMUNITY REDEVELOPMENT AGENCY, AS FOLLOWS:

Section 1: That the attached Third Amendment to Lease Agreement, incorporating a one-time rent reimbursement in the amount of \$11,298.65 and 100% abatement of rent during a month-to-month Lease extension for July, August and September, 2016, is hereby approved.


Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Agency.

Passed and adopted by the Caroline Street Corridor and Bahama Village Community Redevelopment Agency at a meeting held this 6th day of July, 2016.


Authenticated by the presiding officer and Clerk of the Agency on July 7, 2016.

Filed with the Clerk July 7, 2016.

Chairman Craig Cates	<u>Yes</u>
Commissioner Sam Kaufman	<u>Yes</u>
Commissioner Clayton Lopez	<u>Yes</u>
Commissioner Richard Payne	<u>Yes</u>
Commissioner Margaret Romero	<u>Yes</u>
Commissioner Billy Wardlow	<u>Absent</u>
Commissioner Jimmy Weekley	<u>Yes</u>

  
CRAIG CATES, CHAIRMAN

ATTEST:

  
CHERYL SMITH, CITY CLERK

### THIRD AMENDMENT TO LEASE AGREEMENT

This Third Amendment to Lease Agreement is entered into this 15 day of June, 2016, by and between Key West Caroline Street and Bahama Village Community Redevelopment Agency hereinafter ("CRA") and, Tim Wegman (hereinafter "TENANT").

#### WITNESSETH:

WHEREAS, CRA and TENANT entered into a Lease Agreement on July 1, 2011, (hereinafter the "Lease Agreement"), pertaining to the premises located at 907 Caroline Street, Key West, Florida.

WHEREAS, the CRA and TENANT entered into the first amendment to the Lease Agreement by Resolution 07-013 on January 3, 2007 and,

WHEREAS, the CRA and TENANT entered into the second amendment to the Lease Agreement by Resolution 11-349 on December 6, 2011 and,

WHEREAS, the CRA and TENANT now desire to enter into a third amendment to the Lease Agreement.

NOW, THEREFORE, in mutual consideration of the benefits conferred upon the parties by the terms of this Amendment, CRA and TENANT agree as follows:

1. Section 14 of the Lease Agreement shall be partially amended to provide the following for losses incurred during the period that the business was impacted due to City of Key West's construction of Caroline Street:
  - a. A one time rent reimbursement in the amount of \$11,298.65 (50% rent already paid by tenant for January 2016, February 2016, and March 2016 and 100% of rent already paid for April 2016, May 2016, and June 2016)
  - b. A one time rent abatement in the amount of \$7,532.43 (100% rent abatement for July 2016, August 2016, and September 2016).
2. Except as modified herein, the Lease Agreement as amended shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have made this Third Amendment to Lease Agreement on the date first written above.



ATTEST

Cheryl Smith, City clerk

CRA

Craig Cates, Chairman

Tenant: Tim Wegman

Tim Wegman

Angela Bedde

Witness

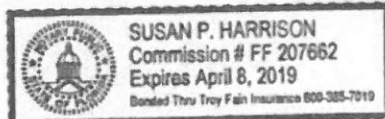
Witness

The foregoing Third Amendment to Lease Agreement was acknowledged before me this 14<sup>th</sup> day of July, 2016, by Tim Wegman who is personally known to me, or who [ ] produced \_\_\_\_\_ as identification.

Notary Public

Print name

My commission expires:



June 1, 2016

To Whom It May Concern;

Thank you for considering a rent abatement. Some other points of interest:

Little Red closed, Conch Tour Train Rerouted, Joe's, formerly JDL's closed, most of ferry passengers found safer or alternate route to their points of interests, Alleyway to Dante's closed, sign said local business open, but the street and sidewalk signs said closed, construction workers were telling our customers to stay off the sidewalk, and that the sidewalk was closed. Construction equipment and employee trucks were blocking the street and sidewalk at times, Dust, coral silt and more Dust. The other 2 open businesses on the 900 Block had entrances on corners to alternate streets.

		2015	2016	
January		28005.75	22176.46	Down 23%
February		25329.28	18636.51	Down 27%
March		27752.36	14724.50	Down 47%
April	Start Sidewalk	19930.17	5962.12	Down 70%
May		17327.50	4377.77	Down 75%
June		13580.90		
July		12237.53		
September		6991.67		
October	[2014] 16778.00	13197.09		
November	[2014] 12438.78	16509.50		
December	[2014] 23832.27	21566.83		



## THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

**TO:** Jim Scholl, City Manager

**FROM:** Key West Bight Management District Board  
Doug Bradshaw, Director Port and Marine Services

**CC:** Greg Veliz, Asst. City Manager  
Sarah Spurlock, Asst. City Manager  
Shawn Smith, City Attorney

**DATE:** June 21, 2016

**SUBJECT:** Piano Shop/Good Day on a Happy Planet Lease Amendment

### ACTION STATEMENT

This is a request to approve a lease amendment to provide a one-time rent reimbursement and abatement for Piano Shop/Good Day on a Happy Planet located at 907 Caroline Street.

### HISTORY

The Key West Caroline Street and Bahama Village Community Redevelopment Agency (CRA) entered into a lease agreement per Resolution 11-349 for the building located at 907 Caroline Street. The lease is set to expire on June 30, 2016 and the CRA has notified the tenant that the building is schedule to be demolished and rebuilt and will not be renewing their lease. It is anticipated that the building will be demolished within three to six months.

In November 2015, the City began construction on the Caroline Street project which included roadwork, sidewalk construction, landscaping, storm water, etc. Beginning in January 2016 through June 2016 significant construction occurred in front of or adjacent to 907 Caroline Street which severely impacted their ability to do business. At times the tenant was unable to open for business because of the construction. Other times the tenant had to spend their time cleaning their merchandise because of the dust created by the contractor. According to the tenant's calculations they suffered a loss of over \$50,000 as shown on their attached letter.

The tenant has submitted a request to the CRA for a 50% rent reduction for the months January, February, and March. In addition tenant is asking for a 100% rent reduction for April, May, and June. Finally the tenant is asking to extend their lease through August in order to recoup loss of business. The Key West Bight Management Board at their June 15, 2016 meeting approved the request by the tenant as well extended the tenants lease extension request by an additional month (September).

The lease does not provide for an abatement of rent as stated in Section 14 of the lease

*Key to the Caribbean - Average yearly temperature 77° F.*



excerpted below as follows:

*In the event that LANDLORD shall deem it necessary or be required by any governmental authority to repair, alter, remove, reconstruct or improve any part of the Demised Premises or of the property (unless the same result from TENANT'S act, neglect, default or mode of operation, in which event LANDLORD shall make all such repairs, alterations or improvements at TENANT'S sole cost and expense), then the same shall be made by LANDLORD with reasonable dispatch, and should the making of such repairs, alterations and improvements cause any interference with TENANT'S use of the Demised Premises, such interference shall not relieve TENANT from the performance of its obligations hereunder nor shall such interference be deemed an actual or constructive eviction or partial eviction or result in abatement of rental.*

Therefore, this is a request to amend the lease to provide a one-time reimbursement and abatement of rent as requested by the tenant to compensate them for a portion of their losses.

#### **FINANCIAL STATEMENT:**

The current monthly rent paid by the tenant is \$2,510.81. Based on the recommendation by the Key West Bight Management Board, the financial impact would be a loss of revenue to the Key West Bight in the amount of approximately \$11,298.65 for the reimbursed rent (50% rent already paid by tenant for January, February, and March and 100% of rent already paid for April, May, and June) and \$7,532.43 for the three months of 100% rent abatement (July, August, and September). Total lost revenue would be \$18,831.08.

#### **RECOMMENDATION**

Although the lease does not provide for a reimbursement or abatement of rent due to interference with the Tenants business, Key West Bight Management District Board believes that the tenant was severely impacted by the construction on Caroline Street. The substantial losses as describe by the tenant warrants consideration of such a reimbursement or abatement through a lease amendment. Since the tenant has already paid their rent for these months they are requesting rent reductions, Key West Bight Management District Board recommends the following lease amendment:

1. Extend the tenants lease on a month-to-month
2. Provide rent reimbursement to the tenant in the amount of \$11,298.65,
3. Provide a 100% abatement in July, August, and September to allow tenant to liquidate their inventory in preparation of closing their business.



#### Abatement

We are pleading for concessions for a rent abatement for the months our business was directly affected by the City of Key West infrastructure project of Caroline Street. Our small family business suffered loss of sales of nearly \$50,000 as per 2015 financials provided. Peak season, January through May, was when construction detours cut us off of most foot and all automobile traffic. The sidewalk and street from Margaret Street to Grinnell Street was closed at intervals on either side of our storefront and sometimes both directions. Construction vehicles blocked sidewalks at times diverting foot traffic. Most potential business was detoured to other streets. Neighboring businesses and points of interest, such as the Railroad Museum have remained closed during construction. Lessening foot traffic. In honor of our lease with the Key West City Bight we stayed and continued to conduct business. Loss of sales caused us to have to lay off our entire staff, leaving us to run our store solely.

With business levels being down 23-75% from previous years, our inventory levels remain high. We attended industry trade shows in September 2015, aware the lease of 907 Caroline Street was ending June 30, 2016 and structured our buying pattern for Spring 2016 inventory levels for our typical high season sales and an exit in June. There we signed order copies for merchandise, a contract, to stock our store in order to generate the sales needed to conduct business. Shipments began arriving November 2015 through March 2016. For the first time in our 28 years of retail experience in the Keys we are unable to pay our vendors for merchandise that remains on our store shelves.

We are pleading to council to consider a minimum of a 50% rent reduction for the months January, February and March. In addition to a 100 % rent reduction for the months April, May and June. Our numbers warrant this. Finally, we are asking to extend our lease through the month of July and possibly August in order to recoup loss of business.

Thank you for your considerations.

Sincerely,

Randall Althouse, Lisa Althouse and Timothy Wegman