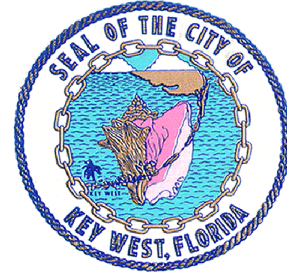


EXECUTIVE SUMMARY



**CITY OF KEY WEST
CITY MANAGERS OFFICE**

**TO: Jim Scholl
City Commission**

CC: Mark Finigan, Shawn D. Smith

FR: Marilyn Wilbarger, RPA, CCIM

DT: April 29, 2010

RE: Waterfront Market Settlement Agreement for Lease Termination

ACTION: This is a request to approve a settlement agreement for the termination of the lease at 201 William Street DBA Waterfront Market.

BACKGROUND: In 2007 the CRA entered into a ten year lease agreement with Russell Pantelis for 11,178 square feet at the Key West Bight that he operated as the Waterfront Market (Resolution 07-440). In March of 2008 the business was sold and the lease was assigned to United Natural Foods, Inc. (Resolution 08-082).

In March of this year we received a request from representatives of United Natural Foods to terminate the lease citing several reasons which are included in their correspondence that is attached. We have reached an agreement which will provide for the payment of \$900,000.00 as a termination fee in full settlement of all obligations that the Tenant has under the lease.

The Tenant plans to close their doors on June 15 and pay rent through June 30th. The Tenant has agreed to vacate the Premises by June 30th and will remove all furniture, fixtures, equipment and signage at their cost. The tenant will not be obligated to make any repairs due to the removal of their equipment or normal wear and tear however, the Tenant will be obligated to pay for any material damage caused during the move out.

FINANCIAL: There are seven years remaining on the lease and the total outstanding rent obligation is \$1,712,052 and \$510,092 in estimated operating costs for a total of \$2,223,033 before sales tax. The termination fee represents approximately 52.5% of the outstanding base rent or 40.5% of the total rent and operating costs.

RECOMMENDATION:

Staff recommends acceptance of the proposed settlement agreement and termination fee as provided for therein.