



THE CITY OF KEY WEST

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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.

EX-01773 3061203K3 1242WMS 3061203K3

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.