



## AGENDA REPORT

**Meeting Date:** August 3, 2010  
**Item Number:** G-8  
**To:** Honorable Mayor & City Council  
**From:** Brenda A. Lavender, Real Estate & Property Manager  
**Subject:** TENTH AMENDMENT TO LEASE BY AND BETWEEN THE CITY OF BEVERLY HILLS AND LUCERNE HARDWARE CO.  
**Attachments:** 1. Tenth Amendment to Lease

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### **RECOMMENDATION**

It is recommended that the City of Beverly Hills approve the Tenth Amendment To Lease by and between The City of Beverly Hills and Lucerne Hardware Co. A copy of the lease is on file with the City Clerk. Lucerne Hardware is located at 313 North Crescent Drive.

### **INTRODUCTION**

A Tenth Amendment to Lease with Lucerne Hardware Co has been prepared for City Council approval. The amendment reduces the base rent from \$8,110.52 to \$7,299.72 monthly for twelve (12) months. The rent reduction is effective as of June 1, 2010. Lucerne Hardware is a long-standing business in the city servicing the community's hardware and handyman service needs. Lucerne Hardware is the only hardware store in the city of Beverly Hills providing a valuable service to the community.

### **DISCUSSION**

In March of 2009, Lucerne Hardware's lease was extended by six (6) years through October 31, 2015, with a five (5) year option that could further extend the lease through October 31, 2020. This lease amendment reduces rent for twelve (12) months in an effort to retain our long-term tenant and the only hardware store in the city.

**FISCAL IMPACT**

The fiscal impact of this lease amendment is a monthly reduction in rent of \$810.80 and annually of \$9,729.60. The reduction in rent is reflective of the current economy, in which many independent hardware stores are not able to continue operating. Through the downturn in the economy the City remains committed to the community and retaining our local services. There is no capital investment for the City.



Scott G. Miller, Director of  
Administrative Services, CFO

Approved By

# **Attachment 1**

Tenth Amendment to Lease

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

City of Beverly Hills  
Office of the City Manager  
455 North Rexford Drive  
Beverly Hills, California 90210  
Attn: City Clerk

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(space above line for recorder's use)

The undersigned Lessor declares that this Tenth Amendment to Lease is exempt from Recording Fees pursuant to California Government Code Section 27383 and is exempt from documentary transfer taxes pursuant to California Revenue and Taxation Code Section 11922.

**TENTH AMENDMENT TO LEASE**

THIS TENTH AMENDMENT TO LEASE (this "**Amendment**") is made and entered into as of \_\_\_\_\_, 2010, by and between the CITY OF BEVERLY HILLS, a California municipal corporation ("City"), and LUCERNE HARDWARE CO., a California corporation ("Tenant").

**RECITALS**

A. City and Tenant executed that certain Lease dated November 1, 1988 (the "**Original Lease**"). The Original Lease was amended by that letter dated December 22, 1988, executed by City and Tenant (the "**First Amendment**"); that certain Amendment to Lease dated as of September 8, 1992, executed by City and Tenant (the "**Second Amendment**"); that certain Third Amendment to Lease dated March 7, 1995, executed by City and Tenant (the "**Third Amendment**"); that certain Fourth Amendment to Lease dated January 16, 1996, executed by City and Tenant (the "**Fourth Amendment**"); that certain Fifth Amendment to Lease dated as of February 4, 1997, executed by City and Tenant (the "**Fifth Amendment**"); that certain Sixth Amendment to Lease dated as of September 22, 1998, executed by City and Tenant (the "**Sixth Amendment**"); that certain Seventh Amendment to Lease dated as of January 4, 2000, executed by City and Tenant (the "**Seventh Amendment**"); that certain Eighth Amendment to Lease dated April 13, 2004, recorded on May 25, 2004 as Document No. 041341231 in the Official Records of Los Angeles County, California (the "**Eighth Amendment**"); and that certain Ninth Amendment to Lease dated as of March 11, 2009, recorded on April 14, 2009 as Document No. 20090538735 in said Official Records (the "**Ninth Amendment**"). The Original Lease, as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, the Seventh Amendment, the Eighth Amendment and the Ninth Amendment, is referred to herein as the "**Lease.**"

B. The Lease affects a portion of the building located at 333 North Crescent Drive, Beverly Hills, California (the "**Property**").

- C. City and Tenant now desire to further amend the Lease as provided herein.

### A G R E E M E N T

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, the rents to be paid hereunder and of the covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Tenant agree as follows:

1. Extension of Term. Section 3 of the Lease is hereby amended to extend the lease term to May 31, 2011, and the dates in the parenthetical in Section 3 of the Ninth Amendment shall be revised to June 1, 2011, June 1, 2013, June 1, 2015, June 1, 2017 and June 1, 2019, respectively.
2. Monthly Rent. The Monthly Rent from June 1, 2010 through May 31, 2011 shall be \$7,299.72 (which includes storage space rent).
3. Conflict. In the event of a conflict or inconsistency between the terms and conditions of the Lease and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall prevail and control.
4. Continuing Effect. Except as specifically modified hereby, the Lease shall remain unaffected and unchanged by reason of this Amendment. The Lease is hereby ratified and affirmed by City and Tenant and remains in full force and effect as modified hereby.
5. Counterparts. This Amendment may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, taken together, shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, City and Tenant have executed this Amendment as of the date and year first above written.

**CITY:**

CITY OF BEVERLY HILLS,  
a municipal corporation

By: \_\_\_\_\_  
Jimmy Delshad, Mayor

**ATTEST:**

\_\_\_\_\_  
Byron Pope, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Laurence S. Wiener, City Attorney

**APPROVED AS TO CONTENT**

\_\_\_\_\_  
Jeffrey Kolin, City Manager

**APPROVED AS TO CONTENT**

  
\_\_\_\_\_  
Scott Miller, Director of Administrative Services/CFO

**TENANT:**

LUCERNE HARDWARE CO.,  
a California corporation

By: \_\_\_\_\_  
Jeffrey Tilem  
President

**REAFFIRMATION**

The undersigned (“**Guarantor**”) has reviewed the Tenth Amendment to Lease to which this Reaffirmation is attached (the “**Amendment**”) and hereby consents to the execution and delivery of the Amendment by Tenant, and Guarantor further agrees that the execution and delivery of the Amendment by Tenant shall not impair, limit, abrogate or reduce in any manner or to any extent, the obligations of Guarantor under that certain Guaranty of Lease dated March 7, 1995, executed by Guarantor in favor of City, and that such Guaranty of Lease guarantees the Lease as so amended.

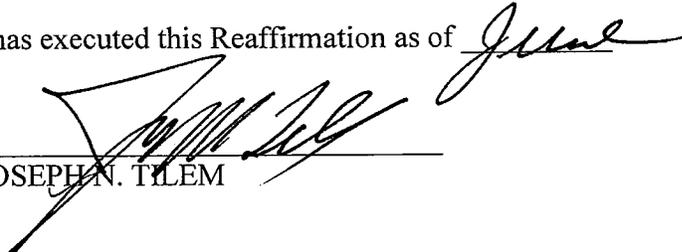
Guarantor acknowledges and agrees that, notwithstanding the execution and delivery of the Amendment by Tenant, (a) Guarantor remains liable under the Guaranty to the fullest extent as if the terms and conditions of the Original Lease were as reflected in the Lease as modified by the Amendment, (b) each of the terms and conditions of, and waivers contained in, the Guaranty remain unmodified and in full force and effect, and (c) Guarantor hereby renews, reaffirms, ratifies and confirms the Guaranty.

Guarantor acknowledges that City would not enter into the Amendment without the execution and delivery of this Reaffirmation.

The execution, delivery and performance by Guarantor of this Reaffirmation is within Guarantor’s powers and have been duly authorized by all necessary action by or on behalf of Guarantor. This Reaffirmation shall be governed by and construed in accordance with the laws of the State of California, without giving effect to conflict of laws principles. This Reaffirmation shall inure to the benefit of City and its successors and assigns, and shall be binding upon Guarantor and his respective successors and assigns.

*29*, 2010.

**GUARANTOR:**

IN WITNESS WHEREOF, Guarantor has executed this Reaffirmation as of *June*  
  
\_\_\_\_\_  
JOSEPH N. TLEM

**ACKNOWLEDGMENT**

State of California )  
County of Los Angeles )

On June 29 2010 before me, LeAnne E Maillian  
(insert name and title of the officer)

personally appeared Joseph N Tihem

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)  
Signature of Notary Public



**ACKNOWLEDGMENT**

State of California )  
County of Los Angeles )

On July 7 2010 before me, Joni M. Sand, Notary Public  
(insert name and title of the officer)

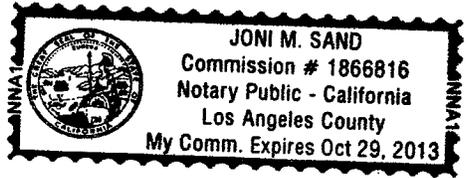
personally appeared Jeffrey Tihem

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] (Seal)  
Signature of Notary Public



**ACKNOWLEDGMENT**

State of California )  
 )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

personally appeared \_\_\_\_\_,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)  
Signature of Notary Public