



AGENDA REPORT

Meeting Date: November 15, 2011
Item Number: F-2
To: Honorable Parking Authority
From: Brenda A. Lavender, Real Estate & Property Manager
Subject: ELEVENTH AMENDMENT TO LEASE BY AND BETWEEN THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS AND LUCERNE HARDWARE CO.
Attachments: 1. Eleventh Amendment to Lease

RECOMMENDATION

It is recommended that the Parking Authority of the City of Beverly Hills approve the Eleventh 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

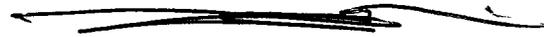
An Eleventh Amendment to Lease with Lucerne Hardware Co has been prepared for Parking Authority approval. The amendment extends the reduced monthly base rent of \$7,299.72 through March 31, 2012. The base rent will increase back to \$9,389.27 over three (3) months at the rate of \$7,996.24 in April 2012, \$8,692.76 in May 2012 and \$9,389.27 in May 2012. 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, and reduced the rent from \$9,389.27 to \$8,110.52 for twelve months. In 2010 City Council agreed to reduce the base rent from \$8,110.52 to the current rent of \$7,299.72. The 11th Amendment extends the reduced rent 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

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

The Parking Authority of the City of
Beverly Hills
455 North Rexford Drive
Beverly Hills, California 90210
Attn: Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned Landlord declares that this Eleventh 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.

ELEVENTH AMENDMENT TO LEASE

THIS ELEVENTH AMENDMENT TO LEASE (this "**Amendment**") is made and entered into as of November 15, 2011, by and between THE PARKING AUTHORITY OF THE CITY OF BEVERLY HILLS, a California municipal corporation ("Landlord"), and LUCERNE HARDWARE CO., a California corporation ("Tenant").

RECITALS

A. The City of Beverly Hills 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 the City and Tenant (the "**First Amendment**"); that certain Amendment to Lease dated as of September 8, 1992, executed by the City and Tenant (the "**Second Amendment**"); that certain Third Amendment to Lease dated March 7, 1995, executed by the City and Tenant (the "**Third Amendment**"); that certain Fourth Amendment to Lease dated January 16, 1996, executed by the City and Tenant (the "**Fourth Amendment**"); that certain Fifth Amendment to Lease dated as of February 4, 1997, executed by the City and Tenant (the "**Fifth Amendment**"); that certain Sixth Amendment to Lease dated as of September 22, 1998, executed by the City and Tenant (the "Sixth Amendment"); that certain Seventh Amendment to Lease dated as of January 4, 2000, executed by the City and Tenant (the "**Seventh Amendment**"); that certain Eighth Amendment to Lease dated April 13, 2004 executed by the City and Tenant, recorded on May 25, 2004 as Document No. 041341231 in the Official Records of Los Angeles County, California (the "**Eighth Amendment**"); that certain Ninth Amendment to Lease dated as of March 11, 2009 executed by the City and Tenant, recorded on April 14, 2009 as Document No. 20090538735 in said Official Records (the "**Ninth Amendment**"); and that certain Tenth Amendment to Lease dated as of August 3, 2010 executed by the City and Tenant, recorded on October 22, 2010 as Document No. 20101520636 in said Official Records (the "**Tenth 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 Eight Amendment, the Ninth Amendment and the Tenth 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**”). The Property has been conveyed by the City to Landlord.

C. Landlord 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, Landlord 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, 2014.

2. Monthly Rent During Extension of Term. The Monthly Rent (which includes storage space rent) shall be as follows:

<u>Months</u>	<u>Monthly Rent</u>
June 1, 2011 – March 31, 2012	\$7,299.70
April 1, 2012	\$7,996.24
May, 2012	\$8,692.76
June, 2012 through May, 2014	\$9,389.27

3. Extension Term; Extension Term Monthly Rent. Section 3 of the Ninth Amendment is hereby deleted. Tenant shall have the option (“**Extension Option**”) to extend the Term for five years (the “**Extension Term**”); however, such option shall be personal to Tenant and may not be assigned to or exercised by any assignee or subtenant of Tenant. Tenant may exercise the Extension Option only by delivery to Landlord of written notice given no later than six (6) months nor earlier than twelve (12) months prior to expiration of the Term. The Monthly Rent shall be adjusted at the beginning of the Extension Term (June 1, 2014) and on June 1, 2016 (each, an “**Adjustment Date**”), as follows:

The base for computing the adjustment will be the Consumer Price Index for All Urban Consumers for the Los Angeles Anaheim-Riverside Metropolitan Area published by the United States Department of Labor, Bureau of Labor Statistics (“**Index**”), which is published for the twenty-seventh (27th) month preceding the applicable Adjustment Date (“**Beginning Index**”). If the Index published for the third (3rd) month preceding the Adjustment Date (“**Extension Index**”) is less than or equal to the Beginning Index, the Monthly Rent shall not be adjusted. If the Extension Index is more than the Beginning Index but less than 105% of the Beginning Index, the Monthly Rent shall be adjusted to an amount determined by multiplying the Monthly Rent in effect immediately prior to that Adjustment Date by a fraction, the numerator of which is the Extension

Index and the denominator of which is the Beginning Index. If the Extension Index is equal to or more than 105% of the Beginning Index, the Monthly Rent shall be adjusted to an amount equal to 105% of the Monthly Rent in effect immediately prior to that Adjustment Date.

If the Index is changed so that the base year differs from that used for the Beginning Index, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4. 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.

5. 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 Landlord and Tenant and remains in full force and effect as modified hereby.

6. 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, Landlord and Tenant have executed this Amendment as of the date and year first above written.

LANDLORD:

THE PARKING AUTHORITY OF THE CITY
OF BEVERLY HILLS

By: _____
Barry Brucker, Chairman

ATTEST:

Byron Pope, Clerk

APPROVED AS TO FORM:

Laurence S. Wiener (86)fn
Laurence S. Wiener, Counsel to Parking
Authority

APPROVED AS TO CONTENT

Jeffrey Kolin, Executive Director

APPROVED AS TO CONTENT

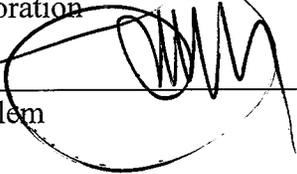
Scott Miller, Director of Administrative
Services/CFO for the City of Beverly Hills in its
capacity as Property Manager for the Parking
Authority

TENANT:

LUCERNE HARDWARE CO.,
a California corporation

By: _____

Jeffrey Tilen
President

A handwritten signature in black ink, appearing to read 'J. Tilen', is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

ACKNOWLEDGMENT

State of California)
County of Los Angeles)

On 10/27/11 before me, MICHAEL SCHNEIDERMAN, NOTARY
(insert name and title of the officer)

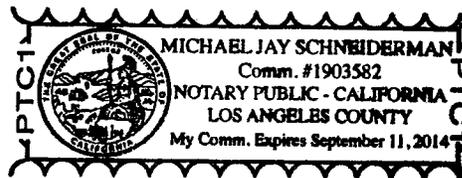
personally appeared Jeffrey Titem

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 Michael Jay Schneider (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

REAFFIRMATION

The undersigned (“**Guarantor**”) has reviewed the Eleventh 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 the City of Beverly Hills, and that such Guaranty of Lease guarantees the Lease as so amended, and that such Guaranty shall inure to the benefit of the Landlord.

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 Landlord 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 Landlord and its successors and assigns, and shall be binding upon Guarantor and his respective successors and assigns.

IN WITNESS WHEREOF, Guarantor has executed this Reaffirmation as of October
21, 2011.

GUARANTOR:



JOSEPH N. TILEM