



# CITY COUNCIL STAFF REPORT

DATE: May 18, 2011

Consent Calendar

SUBJECT: APPROVE A SECOND AMENDMENT TO A LOAN AGREEMENT BY AND BETWEEN SPANISH INN, INC. AND THE CITY OF PALM SPRINGS FOR A PROPERTY AT 640 NORTH INDIAN CANYON DRIVE

FROM: David H. Ready, Executive Director

BY: Community and Economic Development

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## SUMMARY


Spanish Inn, Inc. ("Owner") has made a request to extend the term of its Loan Agreement with the City of Palm Springs. The City Council approved the original Loan Agreement on January 20, 2010, under which the City would make a grant and loan to the Owner if the project is completed and the certificate of occupancy is issued prior to February 9, 2011. That agreement was extended in January, 2011 to May 8, 2011. This amendment would extend the Agreement to August 8, 2011.

## RECOMMENDATION:

1. Approve the 2<sup>nd</sup> Amendment to a Loan Agreement by and between Spanish Inn, Inc. and the City of Palm Springs for a property located at 640 North Indian Canyon Drive, with revisions and an extension of term to August 8, 2011.
2. Authorize the City Manager or his designee to execute all necessary documents.

  
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John Raymond, Director  
Community and Economic Development

  
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Tom Wilson, Assistant City Manager

  
\_\_\_\_\_  
David H. Ready, City Manager

Attachments:

2nd Amendment to Loan Agreement

ITEM NO. 2.I.

**SECOND AMENDMENT TO LOAN AGREEMENT**  
**City of Palm Springs**  
**Spanish Inn, Inc.**

THIS SECOND AMENDMENT TO LOAN AGREEMENT (this "2d Amendment") is entered into as of May 8, 2011, by and between the CITY OF PALM SPRINGS, a California charter city, ("City"), and SPANISH INN, INC., a California corporation ("Spanish Inn"), with reference to the following:

**RECITALS**

A. On September 7, 2005, City Council of City approved a conditional use permit and tentative tract map application of Spanish Inn ("Project") in conjunction with the renovation and reconstruction of a hotel property located at 640 North Indian Canyon, Palm Springs, CA.

B. On December 19, 2007, the City Council approved a one year extension of the Project, subject to a revised development schedule.

C. On February 13, 2008, the City approved a final subdivision map for the Project.

D. On December 14, 2009, Spanish Inn submitted a request to City for financial assistance to ensure the completion of the Project.

E. On January 20, 2010, the City and Spanish Inn entered into a Loan Agreement (the "Agreement") to provide financial assistance to Spanish Inn subject to specific terms and conditions, including completion of the Project and issuance of certificates of occupancy for the Project no later than February 9, 2011.

F. In January of 2011, Spanish Inn requested a 60 day extension of time to complete the Project. The City agreed to provide Spanish Inn with 3 months of additional time to complete the Project and the parties entered into the First Amendment to Agreement which required Spanish Inn to fully perform its obligations under the Agreement by May 8, 2011.

G. On May 4, 2011, Spanish Inn submitted a "Petition to City Council for a short extension of time" (the "Petition") requesting an additional 45 days to complete the Project. A copy of the Petition is on file in the Office of the City Clerk. The City is willing to extend the Agreement for an additional 90 days, or August 8, 2011, subject to the express terms of this 2d Amendment.

NOW, THEREFORE, based upon the foregoing Recitals, which are hereby acknowledged as a substantive part of this 2d Amendment, and in consideration of

the mutual covenants and agreements contained in this 2d Amendment the parties agree:

1. Subsection 2.1 (f) of the Agreement is amended in its entirety to read:

(f) Representations and Warranties. All representations, information, and warranties of Spanish Inn herein contained and provided to the City including without limitation the cost projections and financing requirements as generally described in the Spanish Inn Business Plan Presentation dated December, 2009 and the Petition dated May 2011 are accurate, complete, true and correct.

2. Subsection 2.1 (h) of the Agreement is amended in its entirety to read:

(h) Plans and Specifications; Construction Contract; Permanent Financing; Operator Covenant. Spanish Inn will submit to the City's City Manager and/or his designees for their review: (1) a complete set of plans and specifications for the completion of the Project and an agreement for the construction of all facets of such plans and specifications executed by you and a licensed contractor; (2) such supporting documentation as the City Manager and/or his designees may request that demonstrates the existence of a binding contractual relationship between Spanish Inn and a licensed contractor for the completion of the Project within the time limits or deadlines provided in this Agreement; (3) such supporting documentation as the City Manager and/or his designees may request that demonstrates the existence of secure and binding permanent financing for the Project; and (4) an executed operating management agreement with a qualified hotel operator with the reputation, experience, and qualifications for managing three star or three diamond rated hotel properties.

3. Subsection 2.1 (i) of the Agreement is amended in its entirety to read:

(i) Certificate of Occupancy; Delivery of Documentation; Deadline. All work and improvements must be fully completed and a certificate of occupancy for the entire Project, and the delivery of each and every document required or requested pursuant to the provisions of Subsection 2.1 (h) must be completed and/or delivered on or before August 8, 2011. THERE WILL BE NO EXTENSIONS TO THIS DEADLINE AND REQUIREMENT NOR SHALL THERE BE ANY PRORATIONS OR ALLOWANCES OF ANY KIND IN THE EVENT THIS DEADLINE AND REQUIREMENT ARE NOT FULLY SATISFIED AND COMPLETED. THIS AGREEMENT AND SPANISH INN'S OBLIGATIONS HEREUNDER SHALL NOT BE EXTENDED OR SUBJECT IN ANY WAY TO ANY EVENT OF FORCE MAJUERE, INCLUDING WITHOUT LIMITATION ANY ACTS OF GOD.

4. Except as amended by this Second Amendment, the terms of the Agreement shall remain in full force and effect as written and entered into between the parties.

IN WITNESS WHEREOF, City and Spanish Inn have signed this Agreement as of the date first set forth above.

CITY:  
City of Palm Springs,  
a California Charter City

ATTEST:

(SEAL)

\_\_\_\_\_  
JAMES THOMPSON  
City Clerk

\_\_\_\_\_  
DAVID READY  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS C. HOLLAND  
City Attorney

SPANISH INN:  
Spanish Inn, Inc.,  
a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_