



## CITY COUNCIL STAFF REPORT

DATE: July 6, 2011

NEW BUSINESS

SUBJECT: APPROVE AMENDMENT NO. 1 TO A REMODEL INCENTIVE AGREEMENT WITH VENCE VENTURES, LLC, ON BEHALF OF LULU CALIFORNIA BISTRO, LOCATED AT 200 SOUTH PALM CANYON DRIVE, IN THE AMOUNT OF \$100,000

FROM: David H. Ready, City Manager

BY: Community & Economic Development Department

---

### SUMMARY

On March 16, 2011, the City Council approved a Remodel Incentive Agreement that provided that, if the project is completed by the deadline date, the City would reimburse the Owner of 200 South Palm Canyon Drive, Gerald Keller, the amount of \$100,000 toward the "additional" costs incurred in expediting the project. The policy objective of the City in entering the Agreement was to maintain the positive momentum in downtown, as well as see the creation of the 100 or so jobs earlier in the year rather than waiting until December, and to receive several additional months of sales tax from the business. For the Owner, opening prior to the summer is less appealing than the end of the year because of the additional labor and materials costs, as well as the anticipated slower traffic throughout the summer. Under the Agreement, the City would not be obligated to make any payment if the Owner fails to complete the project and secure a certificate of completion and be open for business and operating by the May 31, 2011 deadline. The Owner has proceeded diligently with the remodel but was not complete by the deadline and has requested the period be extended until July 31, 2011. A letter of request is attached.


### RECOMMENDATION:


- 1) Approve Amendment No. 1 to Remodel Incentive Agreement No. A6082 with Vence Ventures, LLC for LULU California Bistro located at 200 South Palm Canyon Drive
- 2) Authorize the City Manager to execute all necessary documents.

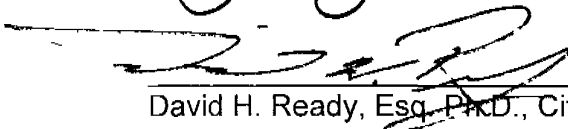
ITEM NO. 50

FISCAL IMPACT:

Funds are available in the Economic Recovery Fund in Economic Development and are continued from the 2010-2011 Fiscal Year.

  
\_\_\_\_\_  
John Raymond, Director

  
\_\_\_\_\_  
Tom Wilson Assistant City Manager

  
\_\_\_\_\_  
David H. Ready, Esq., Ph.D., City Manager

Attachments: Letter of Request  
Amendment

June 20, 2011

David H. Ready, City Manager  
City of Palm Springs  
P.O. Box 2743  
Palm Springs, CA 92263

Dear David,

A lot has happened since we first discussed the opening of LULU. Specifically, after we had the building inspected and decided to go ahead with the project, I hired a top quality team to make it happen, all experienced and successful in what they do.

- David Christian, architect and designer, was the original architect of the first restaurant, Muriel's Nightclub, that went into this building approximately ten years ago and the Palm Springs Life building, and has designed many of Palm Springs' most successful restaurants.
- Jeff Jurasky, interior designer, also designed the interior for Acqua Pazza and will be responsible for the design of the new bar, tables, chairs, carpets and overall feel and look of the restaurant.
- Gary Wexler, advertising and graphic designer, conceived the name, LULU, and has already developed graphics for it. He will be involved in signage, menus, and promotion.
- Rudy Rodriguez, a very talented and successful lighting designer.
- Desert Habitats, built out Acqua Pazza and will be responsible for overseeing the construction of all areas of LULU, including painting, building the new bar, interior separation walls, booths, all electrical, plumbing, etc

Major areas of concern became apparent after we got the demolition permit, opened the walls, ceiling and floor and found many unforeseen and illegal problems created by three previous tenants. Some of these inherited problems were serious past code violations and when we had to reconcile these with the new, more stringent building codes, many unanticipated obstacles were revealed.

This is the primary reason for the extremely long period needed to go from a demolition permit to a permit that allowed us to start construction. Finally, on April 14, 2011, we were able to begin construction and, of course, it was totally impossible to finish this project by May 31, 2011. A project of this magnitude minimally takes 3-4 months to complete.

In addition, full compliance with ADA regulations and their interpretation created additional delays in getting the bar and restaurant design passed. Even more important and difficult was our decision to put in two wheelchair lifts for our two side balconies to

be certain to fully agree with ADA regulations and avoid any potential lawsuits. To accomplish this we had to open up and demolish previously finished areas, create more dust and debris delaying all other operations until its completion. This held us up more than two weeks and added \$60,000 to our construction costs. Separate permits will be needed for these areas.

As promised, I paid extra to expedite manufacture and shipping of building supplies, materials, furniture, fixtures, and overtime labor to try to get this project completed by the promised date. As it turned out, due to the above problems, this was totally impossible.

In an earlier request for assistance I said:

"This design team is at work on preparing plans for submittal to the City. **The building needs very few structural or system repairs.** It has two complete cooling systems, swamp-cooling or air conditioning, providing excellent savings on utility bills. Its layout offers substantial street-side seating, a must on South Palm Canyon Drive, an impressive bar visible from the street, and has the capacity to hold more than three hundred people. The upstairs is perfect for private parties and could host bus tour groups going to the Palm Springs Follies and other theatres, and the many varied events and conventions in Palm Springs. The potential for catering and late night bar business is also very exciting."

**"The building needs very few structural or system repairs."** This seriously wrong assessment, coupled with our new ADA problems, is the crux of the problem to have had this project completed by the end of May.

We're currently working at a feverish pace to make up for lost time, but the complexity of design and the need to be sure that the end result is as impressive and perfect as we can make it continues to create even more build out problems than expected. Working six days a week with a full and augmented construction team, we're making great progress and we have interviewed for staff on June 8th and 9th, (we plan to hire more than 150 employees--a real boost to the local economy), and hopefully will open in a less than a month--definitely in the month of July.

The kitchen will be installed and fully operational by June 30th. All our fixtures, tables, chairs, tableware etc, have been delivered, paid for and are ready to use...we're well on our way to meeting this projected opening date.


I respectfully request that the previous date of May 31st for the city's financial assistance be extended to July 31st.

To date I've already invested more than \$1,300,000 in build-out and expediting, purchased the building and already spent more than I previously promised to expedite the project. I would very much like to open in July, but unfortunately, the Summer and

Fall months of August, September, October and November have always been unprofitable, losing months for restaurants in the Coachella Valley. This is true even for Acqua Pazza, one of the Desert's most successful restaurants.

We've spared no expense to try to create a really superb new restaurant. I very much need the City of Palm Springs' assistance to help me open by July 31st and stay open through the difficult Summer and Fall months to bring to downtown Palm Springs what we truly expect will be a very exciting and much-anticipated big, beautiful new restaurant...LuLu California Bistro...a major, prominent, tax-paying and key part of the growth and prosperity of Palm Springs.

Sincerely,



Jerry Keller



## AMENDMENT NO. 1 TO REMODEL INCENTIVE AGREEMENT

THIS AMENDMENT NO. 1 TO INCENTIVE GRANT AGREEMENT (the "Agreement") is made and entered into this \_\_\_ day of \_\_\_\_\_, by and between the City of Palm Springs, ("City"), and Vence Ventures, LLC the ("Owner"). Collectively the City and Owner are referred to as the Parties.

### RECITALS

- A. City has established a number of Remodel Grant Programs and other incentive programs for Owners and Tenants of commercial-retail businesses in the City of Palm Springs to promote economic activity during the recession and the subsequent slow economic recovery.
- B. Owner is the purchaser of a real property/business located within the eligible area at 200 South Palm Canyon Drive, Palm Springs, ("Property"), otherwise known as LULU California Bistro.
- C. The Property has been vacant for more than two years and is in considerable disrepair, and Owner proposes to spend over \$1,000,000 in renovating and furnishing the restaurant.
- D. Owner demonstrated that the additional costs of expediting the remodel of the Property by May 31 would be nearly \$300,000 above the baseline remodel costs to make interior improvements to the Property as described in Exhibit "B," Scope of Work, by the end of the 2011 calendar year.
- E. Given the additional expense of expediting and the opening so close to the slower summer season, there exists considerable disincentive to move quickly at increased expense to open the restaurant sooner.
- F. The City desires to enter this Agreement is to maintain the positive momentum in downtown, as well as see the creation of the jobs earlier in the year, rather than waiting until December. Opening sooner also gives the City additional new sales tax from the business which will offset a portion of the incentive payment.
- G. Prior to any disbursement under the terms of this Agreement, Owner shall apply for and receive all necessary approvals from the City's Planning, Building or Engineering Departments, which are shown in Exhibit "C", Evidence of Approval, and shall have completed work on the Property sufficient to receive a Certificate of Occupancy. The business shall be open and operating.

- H. The City has reviewed the project scope, the evidence of financial participation by Owner, the location of the Property, and the approvals, and has approved the Application.
- I. The Project was not completed by the original May 31 deadline and the Owner has requested an extension of time until July 31, 2011.

**AGREEMENT**

NOW, THEREFORE, the parties hereto agree that Section 2 of the Agreement is amended to read:

- 1. Schedule. The Parties agree that all interior improvements shall be completed within days of the date of this Agreement, but no later than July 31, 2011. The City would not be obligated to make any payment if the Owner fails to complete the project and secure a certificate of completion and be open for business and operating by the July 31, 2011 deadline.

IN WITNESS WHEREOF, City and Owner have signed this Amendment on the respective dates set forth below.

<p>Dated: _____</p>	<p>"City"</p> <p>The City of Palm Springs, a California Charter City</p> <p>By: _____ David Ready, City Manager</p>
<p>APPROVED AS TO FORM:</p> <p>By: _____ Douglas Holland City Attorney</p>	<p>ATTEST:</p> <p>By: _____ James Thompson City Clerk</p>
<p>Dated: _____</p>	<p>"Owner"</p> <p>Vence Ventures, LLC</p> <p>By _____ _____</p> <p>Its _____</p>