



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: NOVEMBER 10, 2015
FROM: PUBLIC UTILITIES DEPARTMENT WARDS: ALL
SUBJECT: CONSENT TO ENCUMBRANCE AND ESTOPPEL CERTIFICATE WITH JVE HOLDING, LLC AND COMMONWEALTH BUSINESS BANK– 1408-1520 SOUTH E STREET, SAN BERNARDINO CALIFORNIA

ISSUES:

The issue for City Council consideration is approval of the Consent to Encumbrance and Estoppel Certificate with JVE Holding, LLC, as Tenant and Commonwealth Business Bank, as Lender, on Riverside Public Utilities (RPU) owned properties located at 1408-1520 South E. Street in San Bernardino, California, as part of the Tenant’s mortgage refinancing.

RECOMMENDATIONS:

That the City Council:

1. Approve the Consent to Encumbrance and Estoppel Certificate with JVE Holding, LLC, and Commonwealth Business Bank for the current Tenant’s building mortgage refinancing; and
2. Authorize the City Manager or his designee to execute all necessary documents, including making minor non-substantive changes to those documents.

BOARD RECOMMENDATION:

On October 16, 2015, the Board of Public Utilities, voted to recommend City Council approve the Consent to Encumbrance and Estoppel Certificate with JVE Holding, LLC, and Commonwealth Business Bank.

BACKGROUND:

The City of Riverside (City), through Riverside Public Utilities, owns the 5.13-acre parcel of land at 1408-1520 South E Street in San Bernardino (Property). The property was first developed by a tenant in 1985 and has various retail buildings which are subleased to small businesses.

In December 2012, City Council approved a new 55-year ground lease (Lease) with CRE Retail, LLC for commercial, office and retail use of the Property. On October 15, 2014, CRE Retail assigned its rights and obligations under the lease to JVE Holding, LLC (Tenant).

The current Tenant (JVE), is refinancing their mortgage on the building with Commonwealth Business Bank (Lender). In order to obtain the financing, Tenant's Lender is requiring Tenant to provide, as security, a leasehold interest in the City's December 2012 Lease.

The Lender is also requiring the City to consent to the leasehold interest. The agreement required by the Lender is the Consent to Encumbrance and Estoppel Certificate ("Certificate"). By executing the Certificate, the City will be required to provide Lender with duplicate copies of any default notices sent to the Tenant, to allow the Lender to cure Tenant's defaults and then assume the Lease, and to attest that Tenant is not currently in default under the lease.

FISCAL IMPACT:

There is no fiscal impact to the City.

Prepared by:	Girish Balachandran, Public Utilities General Manager
Certified as to availability of funds:	Brent A. Mason, Finance Director/Treasurer
Approved by:	John A. Russo, City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Attachment:

1. Consent to Encumbrance and Estoppel Certificate
2. Ground Lease Agreement
3. October 16, 2015, Board of Public Utilities Minutes