

# RIVERSIDE PUBLIC UTILITIES

## Board Memorandum

**BOARD OF PUBLIC UTILITIES**

**DATE:** JULY 24, 2017

**ITEM NO:** 4

**SUBJECT:**     **CONSENT TO ENCUMBRANCE AND ESTOPPEL CERTIFICATE WITH JVE HOLDING, LLC AND COMMONWEALTH BUSINESS BANK – 1408-1520 SOUTH E STREET, SAN BERNARDINO, CALIFORNIA**

**ISSUE:**

Recommend that the City Council approve a Consent to Encumbrance and Estoppel Certificate with JVE Holding, LLC, as Tenant and Commonwealth Business Bank, as Lender, on Riverside Public Utilities (RPU) owned property located at 1408-1520 South E Street in San Bernardino, California.

**RECOMMENDATIONS:**

That the Board of Public Utilities recommend that the City Council:

1. Approve the Consent to Encumbrance and Estoppel Certificate with JVE Holding, LLC and Commonwealth Business Bank; and
2. Authorize the City Manager, or his designee, to execute the Consent to Encumbrance and Estoppel Certificate, including making minor non-substantive changes, and to sign all documents necessary to complete the transaction.

**BACKGROUND:**

The City, through Riverside Public Utilities (RPU), 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 commercial 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).

On October 15, 2015, the Board of Public Utilities approved a Consent and Estoppel Certificate between the Tenant and Commonwealth Business Bank (Lender) allowing the Tenant to refinance their mortgage in the amount of one million three hundred thousand dollars (\$1,300,000.00). On November 10, 2015, City Council approved the Consent and Estoppel Certificate. The Tenant refinanced their mortgage on the Property shortly thereafter.

**DISCUSSION:**

The Tenant now wishes to refinance the Property again. Another Consent to Encumbrance and Estoppel has been proposed to increase the amount financed to two million dollars (\$2,000,000.00). In order to obtain the financing, the Tenant's Lender is requiring the Tenant to provide, as security, a leasehold interest in the 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 the Lender with duplicate copies of any default notices sent to the Tenant to allow the Lender to cure the Tenant's defaults and then assume the Lease, and to attest that the Tenant is not currently in default under the lease.

**FISCAL IMPACT:**

There is no fiscal impact to the City associated with this item.

Prepared by: Kevin S. Milligan, Public Utilities Deputy General Manager  
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Approved by: John A. Russo, City Manager  
Approved as to form: Gary G. Geuss, City Attorney

Certifies availability  
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Attachment: Consent to Encumbrance and Estoppel Certificate