



RIVERSIDE PUBLIC UTILITIES

Board Memorandum

BOARD OF PUBLIC UTILITIES

DATE: OCTOBER 16, 2015

ITEM NO: 7

File ID – 15-3276 – C

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 items for Board of Public Utilities 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.

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 all necessary documents, including making minor non-substantive changes to those documents.

BACKGROUND:

The City of Riverside (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 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.

Staff recommends execution of the attached Consent to Encumbrance and Estoppel Certificate.

FISCAL IMPACT:

There is no fiscal impact to the City.

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

Certifies availability
of funds: Laura Chavez-Nomura, Public Utilities Assistant General Manager/Finance

Attachments:

1. Consent to Encumbrance and Estoppel Certificate
2. Ground Lease Agreement