

Memorandum

TO: HONORABLE MAYOR,
CITY COUNCIL AND
SUCCESSOR AGENCY BOARD

FROM: Richard A. Keit

SUBJECT: SEE BELOW

DATE: January 7, 2016

Approved

Date

1/8/16

SUPPLEMENTAL

**SUBJECT: SALE OF SUCCESSOR OWNED PROPERTY -226 BALBACH AVENUE
AND 96 SOUTH ALMADEN (PLAZA HOTEL)**

REASON FOR SUPPLEMENTAL

The reason for the Supplemental Memorandum is to inform the Mayor, City Council and Successor Agency Board of new information regarding the Successor Agency's ability to sell the Plaza Hotel to the City of San José for a housing project for homeless individuals and Old Fire Station No. 1 to the San José Fire Museum, which impacts the delegation of authority to the Executive Director.

ANALYSIS

The State Department of Finance (DOF), as indicated in the attached letter, dated December 31, 2015, has not approved the First Amendment to Assignment Agreement (Amendment) between the County of Santa Clara and the Successor Agency. The Amendment would have provided that the County release the County Deed of Trust from the Plaza Hotel and Old Fire Station No.1 in exchange for cash in the amount of the sales proceeds from such sales from the future sale of Agency owned land in the North San Pedro area of Downtown. The release of the County Deed of Trust is necessary so that the Successor Agency can sell the respective properties. DOFs denial is based on their interpretation of the Redevelopment Dissolution Legislation that contracts between successor agencies and public entities cannot be amended.

Staff disagrees with the legal basis underlying DOF's determination and will send a letter detailing the Successor Agency's position and meet with their staff to attempt to resolve this matter expeditiously so the Plaza Hotel and Old Fire Station No. 1 can be sold for their intended

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purposes. The Oversight Board unanimously approved the sale of the Old Fire Station No. 1 on January 22, 2015 and the Plaza Hotel on December 10, 2015.

The City's acquisition of the Balbach property was not impacted by DOF's action disapproving the Amendment since the County was unwilling to include the Balbach property in the Amendment. Prior to the sale of the Balbach property to the City, the release of the County Deed of Trust will need to be addressed and resolved.

Notwithstanding DOF's disapproval of the Amendment, staff recommends that item 9.1 on the January 12 agenda be approved, with the understanding that the Executive Director shall not execute the applicable purchase agreements until the issue related to the County lien on the Plaza Hotel property and old Fire Station No. 1 has been resolved so that the properties can be sold.

/s/

RICHARD A. KEIT

Managing Director

For more information, contact Richard Keit, Managing Director, Successor Agency, at 408-795-1849.

Attachment



December 31, 2015

Mr. Richard Keit, Managing Director
City of San Jose
200 East Santa Clara Street, 14th Floor Tower
San Jose, CA 95113

Dear Mr. Keit:

Subject: Determination of Oversight Board Actions

The City of San Jose Successor Agency (Agency) notified the California Department of Finance (Finance) of its November 19, 2015 Oversight Board (OB) Resolutions on November 19, 2015. Pursuant to Health and Safety Code (HSC) section 34179 (h), Finance has completed its review of the OB actions.

Based on our review and application of the law, Finance has made the following determinations:

OB Resolution No. 2015-11-1099

OB Resolution 2015-11-1099, approving the third amendment (amendment) to the amended and restated lease with the Comedy Club of San Jose, LLC, is approved. The amendment extends the lease by one year (from December 31, 2015 to December 31, 2016). All other terms and conditions remain the same. In addition, the amendment increases revenue by approximately \$66,000 annually, and the OB found the amendment is in the best interests of the taxing entities.

OB Resolution No. 2015-11-1100

OB Resolution 2015-11-1100, approving the First Amendment to Assignment Agreement between the County of Santa Clara and the Agency, is not approved. HSC section 34181 (e) allows the OB to terminate or renegotiate contracts between the Agency and private parties, provided certain conditions are met. As this contract is between the Agency and the County of Santa Clara, a public entity, the amendment is not authorized.

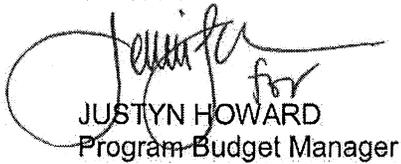
As authorized by HSC section 34179 (h), Finance is returning OB Resolution 2015-11-1100 action to the board for reconsideration.

This is our determination with respect to the OB actions taken.

Mr. Richard Keit
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Please direct inquiries to Wendy Griffe, Supervisor, or Jared Smith, Lead Analyst, at
(916) 445-1546.

Sincerely,


JUSTYN HOWARD
Program Budget Manager

cc: Ms. Julia Cooper, Chief Financial Officer, City of San Jose
Ms. Emily Harrison, Finance Agency Director, Santa Clara County