

Meeting Date: 1/20/2015

Report Type: Consent

Report ID: 2015-00045

Title: Third Amendment to the Entertainment and Sports Center Property Conveyance Agreement and Joint Escrow Instructions: Entertainment and Sports Center Project

Location: Downtown Plaza, District 4

Recommendation: Pass a Motion authorizing the City Manager or his designee to execute the Third Amendment to the Property Conveyance Agreement and Joint Escrow Instructions to transfer now two of the eight approved City transfer properties to SG Downtown LLC, a Sacramento Basketball Holdings LLC affiliate.

Contact: Desmond Parrington, ESC Project Manager, (916) 808-5044, Office of the City Manager

Presenter: None

Department: City Manager

Division: Executive Office

Dept ID: 02001011

Attachments:

1-Description/Analysis

2-Attachment Map

3-PCA 3rd Amendment

City Attorney Review

Approved as to Form

Matthew Ruyak

1/15/2015 8:25:09 AM

Approvals/Acknowledgements

Department Director or Designee: John Dangberg - 1/14/2015 6:20:14 PM

Description/Analysis

Issue Detail: Staff is seeking authorization to amend the Property Conveyance Agreement and Joint Escrow Instructions (PCA) between the City and the affiliates of Sacramento Basketball Holdings LLC (SBH), which are SBH Real Estate Group LLC, SBH Natomas LLC, SBH Downtown LLC, and SG Downtown LLC. This amendment would transfer two City-owned parcels – the airspace above 5th Street at K Street (APN# 006-0087-061-0000) and a small remnant parcel on J Street (APN# 006-0087-059-0000) near the former entrance to the City garage under Downtown Plaza – to SG Downtown LLC, an affiliate of SBH that owns Downtown Plaza. These parcels, shown in the attached map, were previously approved for transfer in the definitive agreements. Staff seeks transfer of the properties at this time as they are needed for the forthcoming mixed-use hotel project in this location.

While the City Council approved on December 16, 2014 a request to defer the transfer of the City properties to the SBH affiliates until no later than October 1, 2016, these two City-owned parcels must be transferred early in order for the mixed-use hotel project to proceed. SBH has already paid the City for these two parcels.

Policy Considerations: Substantive changes to the PCA require Council approval.

Economic Impact: This change will enable the planned hotel mixed-use project to move forward; the project will generate new taxes and jobs for the City.

Environmental Considerations: This report identifies changes to an existing agreement related to the timing for the transfer of eight City-owned properties to SBH affiliates. The actions in this report do not have any potential for significant effect on the environment and are exempt under CEQA Guidelines section 15061(b)(3). In addition, the transfer of City-owned property was previously evaluated in the ESC EIR, which was certified by the Council on May 20, 2015.

Sustainability: Not applicable.

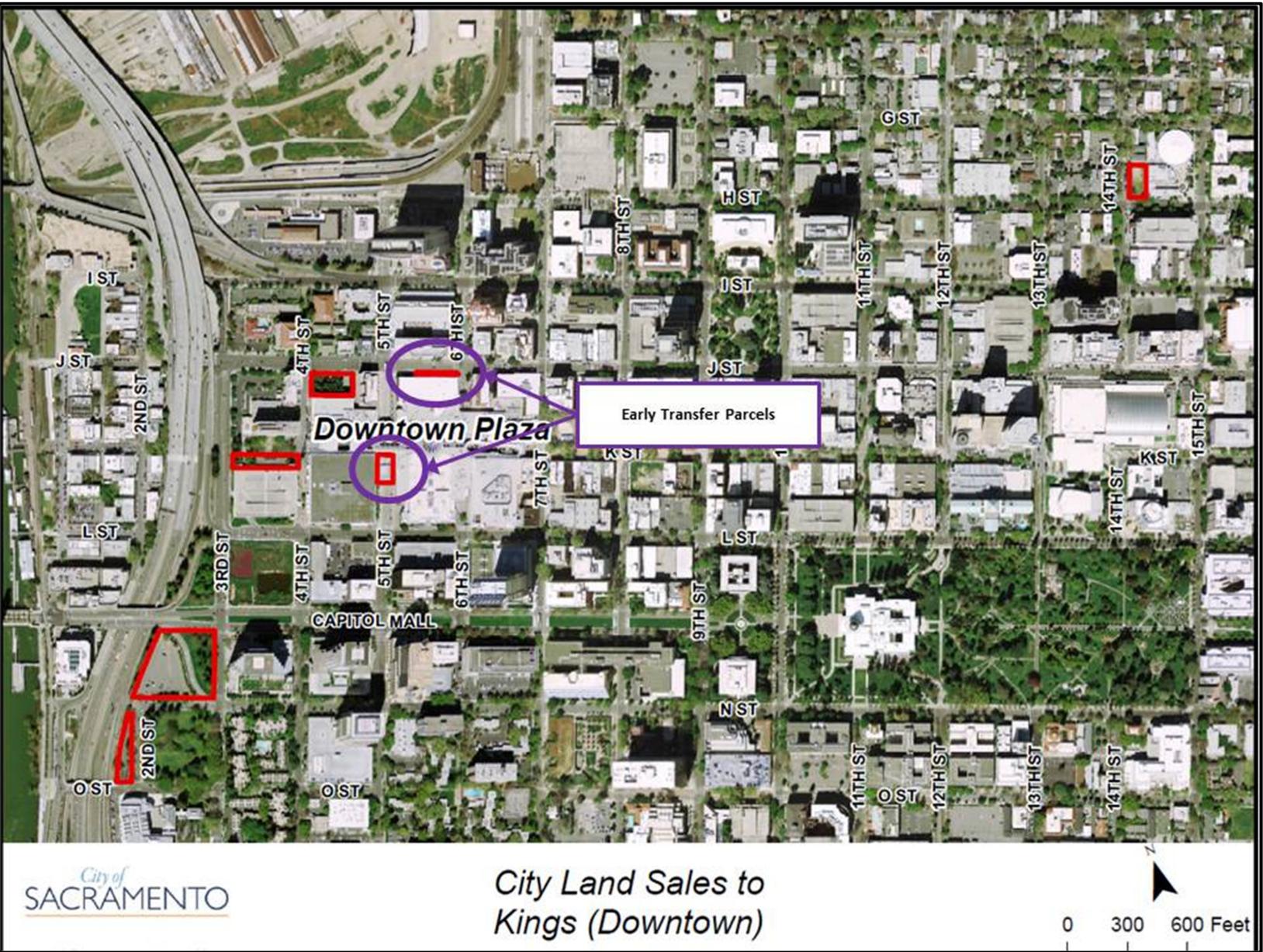
Commission/Committee Action: Not applicable.

Rationale for Recommendation: This change will allow these two City-owned parcels to transfer the SG Downtown LLC, an SBH affiliate, thereby enabling the planned hotel mixed-use project to move forward.

Financial Considerations: The transfer of these properties to the SBH affiliate will yield a small amount of property tax for the City – approximately \$600 to \$700 annually. More importantly, the transfer will allow the planned hotel

mixed-use project to proceed, which will yield property tax, transient occupancy tax (TOT), sales tax, and utility user's tax (UUT) for the City.

Local Business Enterprise (LBE): Not applicable.



Map Showing Early Transfer Parcels
(J Street Remnant Parcel and 5th & K Street Airspace Parcel)

THIRD AMENDMENT TO PROPERTY CONVEYANCE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This **THIRD AMENDMENT TO PROPERTY CONVEYANCE AGREEMENT AND JOINT ESCROW INSTRUCTIONS** (this “**Amendment**”) is made and entered into as of January ___, 2015, by and between the CITY OF SACRAMENTO, a municipal corporation of the State of California (the “**City**”), and SBH REAL ESTATE GROUP LLC, SBH NATOMAS LLC, SBH DOWNTOWN LLC, and SG DOWNTOWN LLC (collectively, “**SBH Parties**”). The City and SBH Parties are sometimes collectively referred to in this Amendment as the “**Parties.**”

BACKGROUND

A. The Parties entered into that certain Property Conveyance Agreement and Joint Escrow Instructions, dated as of May 20, 2014 (City Agreement No. 2014-0507), as amended by that certain First Amendment to Property Conveyance Agreement and Joint Escrow Instructions, dated as of November 4, 2014 and that certain Second Amendment to Property Conveyance Agreement and Joint Escrow Instructions, dated as of December 16, 2014 (collectively, the “**Agreement**”). Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.

With these background facts in mind, the Parties agree as follows:

1. The Parties have agreed that two of the City Parcels, as more particularly described in Exhibit “A” attached hereto (the “**Early Transfer Parcels**”), shall be conveyed prior to the City Parcels Closing Date.

2. A new Section 1.5 is hereby added to the Agreement:

1.5 Early Transfer Parcels. Notwithstanding Section 3.3 below, City shall convey the Early Transfer Parcels to SG Downtown LLC or its designee (the “**Early Transferee**”) on or before February 1, 2015 (the “**Early Transfer Date**”) and prior to the City Parcels Closing Date, as follows:

(A) At least one business day prior to the Early Transfer Date, if not already delivered, the City and the Early Transferee shall make the deliveries to Escrow required for the conveyance of the Early Transfer Parcels in the same manner required for the City Parcels Closing pursuant to Sections 12 and 13 of this Agreement.

(B) The City shall bear the closing costs and expenses for the conveyance of the Early Transfer Parcels pursuant to Section 15.2 of this Agreement, except as otherwise provided in Sections 15.3 and 15.4 of this Agreement.

(C) Upon payment of the title insurance premium by the City to Title Company, Title Company shall issue a CLTA owner’s policy of title insurance for the

Early Transfer Parcels to the Early Transferee as provided by Section 11.2 of this Agreement, in the same manner as for the other City Parcels.

- (D) All prorations for the Early Transfer Parcels shall be in accordance with the provisions of Section 16 of this Agreement.
 - (E) Escrow Holder shall close Escrow with respect to the Early Transfer Parcels on the Early Transfer Date in accordance with the closing procedure set forth in Section 17 of this Agreement and follow the post-closing procedures set forth in Section 19 of this Agreement.
3. The Parties acknowledge that consideration for the Early Transfer Parcels has been provided to the City, including, without limitation, due to Sacramento Downtown Arena LLC's ("**ArenaCo**") satisfaction of Section 3.3(e)(3) of the Arena Finance and Funding Agreement dated as of May 20, 2014 between the City and ArenaCo (an Affiliate of the SBH Parties), as amended.
 4. Except as provided above, all provisions of the Agreement are unchanged and remain in full force and effect.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the Parties have entered into this Amendment as of the day and year first above written.

<p>City of Sacramento</p> <p>By: _____ John F. Shirey City Manager</p> <p>Date: _____, 2015</p>	<p>SBH Real Estate Group LLC, a Delaware limited liability company</p> <p>By: _____ Name: Its:</p> <p>SBH Downtown LLC, a Delaware limited liability company</p> <p>By: _____ Name: Its:</p> <p>SBH Natomas LLC, a Delaware limited liability company</p> <p>By: _____ Name: Its:</p> <p>SG Downtown LLC, a Delaware limited liability company</p> <p>By: _____ Name: Its:</p>
<p>Approved as to Form Sacramento City Attorney</p> <p>By: _____ Matthew D. Ruyak Assistant City Attorney</p>	<p>Approved as to Legal Form Pioneer Law Group, LLP</p> <p>By: _____ Jeffrey K. Dorso Attorneys for SBH Parties</p>

ACCEPTANCE BY ESCROW HOLDER

Fidelity National Title Company hereby acknowledges that it has received a fully executed copy of the foregoing Third Amendment to Property Conveyance Agreement and Joint Escrow Instructions by and among the City of Sacramento, and SBH Real Estate Group LLC, SBH Natomas LLC, SBH Downtown LLC, and SG Downtown LLC, and agrees to act as Escrow Holder under the Agreement (as amended) and to be bound by and strictly perform the terms thereof as such terms apply to Escrow Holder. Escrow Holder shall execute two (2) originals of this Acceptance by Escrow Holder and promptly deliver one (1) original to each of SBH Real Estate Group LLC and City.

Dated: _____, 2015

Fidelity National Title Company

By: _____
Name: _____
Title: _____

EXHIBIT A

EARLY TRANSFER PARCELS

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SACRAMENTO, COUNTY OF SACRAMENTO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

ALL THAT CERTAIN PROPERTY AND SPACE CONTAINED WITHIN PARCEL NO. 1, AS SAID PARCEL IS SHOWN ON THAT CERTAIN AMENDED PARCEL MAP ENTITLED "PORTION OF BLOCK BOUNDED BY 5TH STREET, 6TH STREET, "K" STREET AND "L" STREET AND PORTION OF 5TH STREET, AS SAID BLOCKS AND STREETS ARE SHOWN ON THAT CERTAIN RECORD OF SURVEY ENTITLED "CERTAIN BLOCKS IN AREA BOUNDED BY 'J' AND 'N' STREETS, 2ND AND 8TH STREETS, CITY OF SACRAMENTO", RECORDED IN BOOK 18 OF SURVEYS, MAP NO. 2, SACRAMENTO COUNTY RECORDS, SAID AMENDED PARCEL MAP BEING RECORDED June 19, 1967, IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY IN BOOK 1 OF PARCEL MAPS, AT PAGE 55.

ASSESSOR'S PARCEL NUMBER: 006-0087-061-0000

PARCEL TWO:

AN EASEMENT AND RIGHT OF WAY, BUT NOT THE EXCLUSIVE RIGHT, THROUGH ALL THAT CERTAIN PROPERTY AND SPACE CONTAINED WITHIN PARCEL NO. 2, AS SAID PARCEL IS SHOWN ON SAID AMENDED PARCEL MAP BOOK 1 AT PAGE 55, SO AS TO UTILIZE SAID SPACE FOR STRUCTURAL CONNECTIONS AND ANCHORAGE OF NEW STRUCTURES TO EXISTING STRUCTURES AND FOR THE USE OF THE DECK AS THE FLOOR SYSTEMS OF ANY NEW STRUCTURES AND FOR THE PLACEMENT OF UTILITIES AND ANY APPURTENANCES APPERTAINING THERETO.

PARCEL THREE:

AN EASEMENT AND RIGHT OF WAY, BUT NOT EXCLUSIVE RIGHT, THROUGH, ALL THAT CERTAIN PROPERTY AND SPACE EXTENDING DOWNWARD FROM THE LOWEST PLANES OF SAID PARCEL SIX, DESCRIBED ABOVE, ALONG THE EASTERLY AND WESTERLY WALLS, PILE CAPS, PILES, FOUNDATIONS AND OTHER STRUCTURAL SUPPORTS FOR THE DECK OF SAID UNDERPASS STRUCTURE FOR THE SUPPORT OF ANY NEW STRUCTURE OR STRUCTURES.

APN: 006-0087-061

Parcel 1

All that certain real property situate in the City of Sacramento, County of Sacramento and State of California more particularly described as follows:

Being all of Parcel R-3 as shown and delineated on that certain Parcel Map recorded July 29, 1970 in Book 3 of Parcel Maps at Page 24, Sacramento County Official Records.