

SUCCESSOR AGENCY
RESOLUTION NO. _____

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE FINDING THAT FULTON STREET VENTURES (Z & L PROPERTIES) IS IN DEFAULT OF ITS OBLIGATIONS PURSUANT TO A DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) FOR BLOCK H IN THE NORTH SAN PEDRO HOUSING PROJECT AREA AND AUTHORIZING THE EXECUTIVE OFFICER TO PURSUE ALL AVAILABLE REMEDIES, INCLUDING BUT NOT LIMITED TO EXERCISING THE SUCCESSOR AGENCY'S RIGHT TO RETAKE AND OFFER THE PROPERTY FOR SALE (RIGHT OF REVERTER), PURSUANT TO THE TERMS OF THE DDA AND REFER APPROVAL OF THIS DEFAULT ACTION TO THE COUNTY-WIDE OVERSIGHT BOARD FOR ITS APPROVAL

WHEREAS, the former Redevelopment Agency of the City of San José entered into a Disposition and Development Agreement (“DDA”) with San Pedro Life I, LLC for the development of the Block H property located in the North San Pedro Housing Area and bounded by State Route 87, Terraine Street, Davidson Property and Bassett Street (“Property”); and

WHEREAS, on January 24, 2012, pursuant to California Dissolution Legislation, the City of San José elected to be the Successor Agency to the Redevelopment Agency of the City of San José (“SARA”), which includes the responsibility for monitoring and enforcing Disposition and Development Agreements; and

WHEREAS, in 2017, pursuant to an Amended and Restated DDA between SARA and San Pedro Life I, LLC, SARA sold the Property to San Pedro Life 1; and

WHEREAS, in April 2017, San Pedro Life 1 sold the Property to Fulton Street Ventures LLC (Z & L Properties), and SARA administratively approved the sale through a Consent to Assignment of the DDA; and

WHEREAS, the DDA's Schedule of Performance required commencement of construction by December 31, 2017, and, in addition to other remedies, SARA has the right to take possession of the site ("Right of Reverter") and resell the site pursuant to the DDA provisions in the event of a default by the developer; and

WHEREAS, on December 7, 2018, City staff sent the President of Z & L Properties a letter describing the lack of performance and serving as a Notice of Default of Reverter for the Block H site for failure to comply with the Schedule of Performance; and

WHEREAS, the deadline requirement to complete the Block H residential tower is June 2025, and the claw-back provisions in the State's Infill & Infrastructure Grant would potentially require repayment of the grant funds to the State if the required development is not completed in a timely manner; and

WHEREAS, staff recommends that the Successor Agency Board authorize the Executive Officer to pursue all available remedies, including but not limited to exercising SARA's Right of Reverter pursuant to the terms of the DDA and refer approval of this default action to the County-wide Oversight Board for its approval;

NOW, THEREFORE, BE IT RESOLVED THAT THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE:

1. Finds that Fulton Street Ventures (Z & L Properties) is in default of its obligations pursuant to a Disposition and Development Agreement (DDA) for Block H in the North San Pedro Housing Project Area;
2. Authorizes the Executive Officer to pursue all available remedies, including but not limited to exercising the Successor Agency's right to retake and offer the property for sale (Right of Reverter), pursuant to the terms of the DDA; and
3. Refers approval of this default action to the County-wide Oversight Board for its approval.

ADOPTED this _____ day of _____, 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Chairperson

ATTEST:

TONI J. TABER, CMC
Secretary