

AGENDA

City of El Cajon

Successor Agency – Oversight Board

8:00 a.m., Wednesday, March 18, 2015

BOARD MEMBERS:

SAHAR ABUSHABAN

*Chancellor of the California
Community Colleges
Representative*

SCOTT BUXBAUM

*County Board of Education
Representative*

GLORIA CHADWICK

*Grossmont Healthcare District
Representative*

DENNIS DAVIES

City of El Cajon

(Vacancy)

*County Board of Supervisors
Representative*

ANTHONY SHUTE

*(Former RDA/MMPEG
Employee) City of El Cajon*

DEBRA TURNER- EMERSON

*County Board of Supervisors
Representative*

OB LEGAL COUNSEL:

MEYERS NAVE

SUCCESSOR AGENCY

STAFF:

DOUGLAS WILLIFORD

*Executive Director/
City Manager*

MAJED AL-GHAFRY

*OB Secretary /
Assistant City Manager*

MORGAN FOLEY

General Counsel

CLAY SCHOEN

Director of Finance

HOLLY REED-FALK

Financial Operations Manager

VICTORIA DANGANAN

Senior Accountant

ADRIANA CASTAÑEDA

Management Analyst

RON LUIS VALLES

Administrative Secretary

**El Cajon City Hall
Fifth Floor Conference Room
200 Civic Center Way, El Cajon, CA 92020**

I. CALL TO ORDER & PLEDGE OF ALLEGIANCE:

II. ROLL CALL:

III. AGENDA CHANGES:

IV. PUBLIC COMMENT: (This is the opportunity for a member of the public to address the Oversight Board on any item of business within the jurisdiction of the Board that is not on the agenda. Under State law no action can be taken on items brought forward under Public Comment, except to refer the item to the staff for administrative action or to place it on a future agenda.)

V. ACTION ITEMS:

1. Approval of Action Minutes – February 18, 2015, meeting
2. Approval of First Amendment to the Purchase and Sale Agreement with JKC El Cajon, LLC, for the sale of the Successor Agency Property at 572-588 North Johnson Avenue (Site #10), APN 482-250-34-00.

VI. OTHER ITEMS FOR CONSIDERATION:

VII. STAFF COMMUNICATIONS:

1. Upcoming projects.

VIII. BOARD REPORTS/COMMENTS:

IX. ADJOURNMENT:

SUMMARY MINUTES

Successor Agency to the El Cajon Redevelopment Agency Oversight Board

**Meeting - Wednesday, February 18, 2015
El Cajon City Hall, Fifth Floor Conference Room
200 Civic Center Way, El Cajon, CA 92020**

BOARD PRESENT: Sahar Abushaban, Scott Buxbaum, Gloria Chadwick, Dennis Davies, Anthony Shute and Debra Turner-Emerson (Chair)

BOARD ABSENT: Vacancy due to resignation of Jim Griffin

OB LEGAL COUNSEL: George Eiser III, representing law firm of Meyers Nave

STAFF PRESENT: Assistant City Manager Majed Al-Ghafry, Director of Finance Clay Schoen, Financial Operations Manager Holly Reed-Falk, Senior Accountant Victoria Danganan, Management Analyst Adriana Castañeda, and Administrative Secretary Ron Luis Valles

CALL TO ORDER AND PLEDGE OF ALLEGIANCE:

The meeting was called to order at 8:02 a.m. by TURNER-EMERSON.

PUBLIC COMMENT: None

ACTION ITEM NO. 1: APPROVAL OF ACTION MINUTES – December 3, 2014

SHUTE made a motion, seconded by DAVIES, to approve the minutes of the December 3, 2014, special meeting. **Motion carried 5-0 (BUXBAUM, abstained due to absence at meeting; vacancy due to GRIFFIN's resignation).**

ACTION ITEM NO. 2: ADOPT RESOLUTION APPROVING THE PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF EL CAJON AS SUCCESSOR AGENCY AND C3 INVESTMENTS, INC.

AL-GHAFRY summarized the staff report, and noted that staff recommended approval.

SHUTE made a motion, seconded by BUXBAUM, and adopted Resolution OB-01-15 as presented by staff, approving the purchase and sale agreement between the City of El Cajon as Successor Agency and C3 Investments, Inc., (or its related entity, Raleigh, LLC, a California Limited Liability Company) for the sale of Site #11, APN: 482-250-36-00, located at 531-555 Raleigh Avenue.

Motion carried 6-0 (VACANCY due to GRIFFIN's resignation).

ACTION ITEM NO. 3: ADOPT RESOLUTION APPROVING THE FISCAL YEAR 2015-2016 SUCCESSOR AGENCY BUDGET, INCLUDING THE SUCCESSOR AGENCY ADMINISTRATION BUDGET.

SCHOEN summarized the staff report, and noted that staff recommended approval. ABUSHABAN praised staff for the detail on report.

BUXBAUM made a motion, seconded by ABUSHABAN, and adopted Resolution OB-02-15 as presented by staff, approving the Fiscal Year 2015-2016 Successor Agency Budget, including the Successor Agency Administration Budget.

Motion carried 6-0 (VACANCY due to GRIFFIN's resignation).

ACTION ITEM NO. 4: ADOPT RESOLUTION APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE FOR THE PERIOD JULY 1, 2015, TO DECEMBER 31, 2015 ("ROPS 15-16A").

SCHOEN summarized the staff report, and noted that staff recommended approval.

DAVIES made a motion, seconded by ABUSHABAN, and adopted Resolution OB-03-15 as presented by staff, approving the Recognized Obligation Payment Schedule for the period July 1, 2015, to December 31, 2015 ("ROPS 15-16A")

Motion carried 6-0 (VACANCY due to GRIFFIN's resignation).

STAFF COMMUNICATIONS:

SCHOEN summarized staff communication about the audit. ABUSHABAN again commended staff. The board accepted the Annual Audited Financial Statements and Continuing Disclosure for Fiscal Year Ended June 30, 2014.

Staff informed that there will be a March 17, 2015, Oversight Board meeting.

BOARD REPORTS/COMMENTS:

There were none.

ADJOURNMENT:

SHUTE made a motion, seconded by CHADWICK, to adjourn the regularly-scheduled meeting of the El Cajon Successor Agency Oversight Board at 8:20 a.m. this 18th day of February 2015, to 8:00 a.m., March 18, 2015, in the Fifth Floor Conference Room at City Hall, 200 Civic Center Way, El Cajon, California.

Motion carried 6-0 (VACANCY due to GRIFFIN's resignation).

APPROVED:

Debra Turner-Emerson, Chairperson

ATTEST:

Majed Al-Ghafry, Oversight Board Secretary

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**AGENDA REPORT
CITY OF EL CAJON SUCCESSOR AGENCY OVERSIGHT BOARD
March 18, 2015, Meeting**

SUBJECT: APPROVAL OF FIRST AMENDMENT TO THE PURCHASE AND SALE AGREEMENT WITH JKC EL CAJON, LLC. FOR THE SALE OF THE SUCCESSOR AGENCY PROPERTY AT 572-588 NORTH JOHNSON AVENUE (SITE #10), APN 482-250-34-00

RECOMMENDED ACTION: That the Oversight Board adopt the proposed Resolution No. OB-04-15 to:

1. Approve the proposed First Amendment to the Purchase and Sale Agreement (“Amendment”) between the City of El Cajon, as Successor Agency to the former El Cajon Redevelopment Agency and JKC El Cajon, LLC for the sale of 572-588 N. Johnson Avenue (APN 482-250-34-00), with such changes as approved by the Executive Director; and
2. Approve execution by the Executive Director or designee of all documents necessary to implement approved terms and conditions and complete the sale upon approval by the Oversight Board and California Department of Finance (“DOF”).

BACKGROUND: On September 9, 2014 the City Council as Successor Agency, approved the Purchase and Sale Agreement (“PSA”) between the Successor Agency and JKC El Cajon, LLC (“Buyer”) for the sale of 572-588 N. Johnson Avenue (“Property”). The Oversight Board approved the PSA on September 17, 2014, and the DOF approved the Oversight Board’s action on September 24, 2014.

Since the approval of the PSA, Successor Agency staff has been diligently working with the Buyer on various issues involving the Property. Based on the Property documents and reports obtained by the parties, the Buyer and the Successor Agency staff are proposing that certain terms and conditions of the PSA be modified. Presented and discussed in detail in the First Amendment to Purchase and Sale Agreement (“Attachment B”) are the following proposed amendments:

- a) City Acquisition of Sign Area – The City of El Cajon, in its capacity as the City and not the Successor Agency, will enter into a separate written agreement with the Buyer regarding the acquisition of approximately 1,200 square-foot area of the Property designated as the Sign Area. The City will need access and easement rights to this area, including all utilities and other public infrastructure in the Property.
- b) Conditional use permit – The Property is currently zoned for heavy commercial/ light industrial use. The Buyer’s plan to develop the Property for vehicle sales and service is permitted, but the First Amendment would require the Buyer to

obtain approval of a Conditional Use Permit (“CUP”). The Buyer has until June 30, 2015, to obtain a CUP for such intended uses.

- c) Close of Escrow – The Buyer wishes to extend the date of closing until August 31, 2015 after Buyer’s approval of conditions set forth in Subdivision (B) of Section III (which includes the additional condition for approval of the CUP and FEMA’s approval of the CLOMR discussed below).
- d) Flood Map Revision – The Property requires a Conditional Letter of Map Revision (“CLOMR”) from the Federal Emergency Management Agency (“FEMA”) to remove the Property from the FEMA floodway map. The Successor Agency will apply for a CLOMR, and the Buyer will share in the expense incurred by the Successor Agency to process the CLOMR.
- e) IRS Section 1031 Exchange – The Buyer has requested the option to acquire the Property as part of a like-kind exchange transaction by assigning the Agreement to a qualified intermediary in connection with a tax-deferred exchange. This request is typical when dealing with transactions involving large investment properties, where allowing the use of a Section 1031 Exchange assists the purchaser, and Staff recommends approval.

A separate report to the City Council, acting in its capacity as the Successor Agency, for approval and execution of the First Amendment to the Purchase and Sale Agreement and related documents, under terms outlined in this report, was presented at its regularly scheduled meeting held on March 10, 2015, and the First Amendment and related documents were approved at that time by the City Council acting as the Successor Agency.

FISCAL IMPACT: The Buyer and the Successor Agency will share in the expense to process the required CLOMR with total cost estimated at \$15,000. The Buyer will pay up to 50% of the total actual cost, not to exceed \$7,500. The Successor Agency’s share of the cost will be paid using Other Funds approved in the Recognized Obligation Payment Schedules (“ROPS”) and/or through the escrow account using proceeds from the sale of the Property.

ATTACHMENTS:


- A. Proposed Resolution No. OB-04-15
- B. Draft First Amendment to the Purchase and Sale Agreement

Oversight Board Agenda Report
Approval of First Amendment to the Purchase and Sale Agreement between
the City as Successor Agency and JKC El Cajon, LLC
March 18, 2015, Agenda

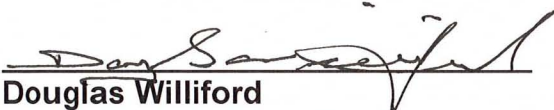
Prepared by:


Adriana Castañeda
Management Analyst

Reviewed by:


Majed Al-Ghafry
Secretary / Assistant City Manager

Approved by:


Douglas Williford
Executive Director / City Manager

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RESOLUTION NO. OB-04-15

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER EL CAJON REDEVELOPMENT AGENCY APPROVING A FIRST AMENDMENT TO THE PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF EL CAJON AS SUCCESSOR AGENCY AND JKC EL CAJON, LLC, FOR THE SALE OF SITE #10, APN 482-250-34-00, LOCATED AT 572-588 NORTH JOHNSON AVENUE

WHEREAS, on September 9, 2014, the City Council as Successor Agency to the El Cajon Redevelopment Agency (the "Successor Agency") approved the Purchase and Sale Agreement (the "PSA") between the Successor Agency and JKC El Cajon, LLC (the "Buyer") for the sale of 572-588 North Johnson Avenue, a 1.36 acre parcel in a premium location adjacent to Interstate 8 with easy access to the freeway, APN 482-250-34-00 (the "Property"), and

WHEREAS, the PSA was approved by the Oversight Board on September 17, 2014 and the California Department of Finance (the "DOF") on September 24, 2014; and

WHEREAS, the Buyer and the Successor Agency entered into that certain Purchase and Sale Agreement dated October 28, 2014, for the purpose of the purchase of the Property by the Buyer; and

WHEREAS, the Buyer and the Successor Agency have proposed modification of certain terms and conditions of the PSA to include (1) the terms related to the acquisition of an approximately 1,200 square foot area by the City of El Cajon, for a highway oriented sign, including necessary access easements; (2) adding a condition that the Buyer must first obtain a conditional use permit for vehicle sales and service; (3) adding a condition that the Property is removed from FEMA's floodway map through an approved Conditional Letter of Map Revision ("CLOMR"), with an agreement for the sharing of costs for the CLOMR; (4) extending the date for the close of escrow in order to meet the conditions for obtaining both the conditional use permit and the CLOMR; and (5) including the option for the Buyer to acquire the Property as a part of a property exchange pursuant to Internal Revenue Code section 1031; and

WHEREAS, approval of the proposed First Amendment has been obtained from the El Cajon City Council on behalf of the Successor Agency, including the identification of funds to meet the Successor Agency's obligations under the First Amendment in the Recognized Obligation Payment Schedules (the "ROPS"); and

WHEREAS, the proposed sale of the Property is exempt from the provisions of the California Environmental Quality Act (CEQA) in accordance with Section 15061(b); (General Rule) of the CEQA Guidelines; and as it pertains to this project, the subject property is vacant land, and there is no proposed redevelopment or use of the property

at this time; and Section 15061(b) provides an exemption for projects where it can be seen with certainty that there is no possibility that the proposed project may have a significant impact on the environment; and

WHEREAS, the El Cajon City Council, acting solely in its capacity as Successor Agency to the El Cajon Redevelopment Agency, approved the First Amendment to the Purchase and Sale Agreement on March 10, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER CITY OF EL CAJON REDEVELOPMENT AGENCY AS FOLLOWS:

- A. The Oversight Board finds that:
 - 1. The above recitals are true and correct and are the findings of the City Council.
 - 2. The proposed sale is exempt from the California Environmental Quality Act (CEQA) under Section 15061 (b) (3) (General Rule) of the CEQA Guidelines because it will have no physical effect on the environment.
- B. The Oversight Board hereby APPROVES the First Amendment to the Purchase and Sale Agreement for the sale of the Property to JKC El Cajon, LLC, to modify certain terms and conditions of the PSA as more particularly set forth therein, and herein.
- C. The Oversight Board hereby APPROVES execution by the City Manager of the City of El Cajon, or such person designated by the City Manager, acting in the capacity of chief executive officer for the Successor Agency, of the First Amendment, substantially in the form as presented at this meeting, with such changes as the City Manager, or designee, shall approve, and all actions and execution of all such other and further documents, instructions, certificates, and agreements necessary to close the escrow for the sale of the Property in accordance with the terms of the PSA.

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PASSED AND ADOPTED by the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency at a regularly-scheduled meeting held this 18th day of March, 2015, by the following vote to wit:

AYES :
NOES :
ABSENT :
ABSTAIN :

Debra Turner-Emerson, Chairperson

ATTEST:

Majed Al-Ghafry, Oversight Board Secretary

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**FIRST AMENDMENT TO
PURCHASE AND SALE AGREEMENT
BETWEEN CITY OF EL CAJON AS SUCCESSOR
AGENCY TO THE FORMER EL CAJON REDEVELOPMENT
AGENCY AND JKC EL CAJON, LLC**

THIS FIRST AMENDMENT is made and entered into effective this ____ day of January, 2015, by and between JKC EL CAJON, LLC, an Oregon limited liability company (the "Buyer"), and the CITY OF EL CAJON AS SUCCESSOR AGENCY TO THE FORMER EL CAJON REDEVELOPMENT AGENCY, a charter city and municipal corporation (the "Seller").

RECITALS

1. Developer and Agency entered into that certain Purchase and Sale Agreement dated October 28, 2014 (as amended from time to time, the "Agreement"), for the purpose of selling, on the part of the Seller, to the Buyer, certain real property and improvements thereon commonly known as 572 North Johnson Avenue, El Cajon, California (APN 482-250-34) (the "Property").

2. The Agreement provides, in Section VII, paragraph (M), that it may be amended by the parties only by an agreement in writing.

3. Buyer and Seller now wish to modify certain terms and conditions of the Agreement and wish to reduce their understanding to writing in accordance with the requirements of Section VII, paragraph (M), of the Agreement.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

Section 1. Paragraph (7) of Subdivision (B) of Section III, is hereby amended to read as follows:

7. City Acquisition of Sign Area. Buyer and the City of El Cajon (the "City"), in its own capacity, and not as the successor agency to the El Cajon Redevelopment Agency, will enter into a mutually acceptable written agreement prior to April 30, 2015 regarding the City's acquisition of approximately 1,200 square feet of the Property for a City of El Cajon sign, together with such rights to access the Sign Area, including all utilities, under, over, and upon the Property as may be agreed to by the Buyer (the "Sign Area"). The agreement for the Sign Area shall include the following terms:

a. City shall pay the sum of \$36,000 to the Buyer for the Sign Area, which payment shall be made through Escrow.

b. Seller will provide legal description of Sign Area, which includes the access easement, to the escrow company for recordation.

Section 2. Paragraph (2) of Subdivision (B) of Section II, is hereby amended to read as follows:

2. **Deposit.** The Initial Deposit and a subsequent deposit made by the Buyer in the amount of FIFTY THOUSAND and 00/100 Dollars (\$50,000.00) due on or before 121 calendar days after this Agreement is signed by both parties (the "Second Deposit"), **and, if applicable, a third deposit in the amount of FIFTY THOUSAND and 00/100 Dollars (\$50,000), as hereinafter set forth, are sometimes referred to herein as the "Deposits".** In the event that for any reason, including additional time needed to obtain a conditional use permit for the property, closing does not occur on or prior to June 30, 2015, Buyer shall make a third deposit in the amount of FIFTY THOUSAND and 00/100 Dollars (\$50,000.00) (the "Third Deposit") on or before June 30, 2015, for the purposes of extending the Close of Escrow beyond June 30, 2015 but in no event later than as set forth in Subdivision (D) of Section III. Upon Escrow's receipt of Buyer's Third Deposit, Buyer's entire Deposit (of ONE HUNDRED FIFTY THOUSAND AND 00/100 Dollars (\$150,000)) shall become non-refundable to Buyer unless the CLOMR is not approved by FEMA or Buyer as set forth in Subdivision (D) of Section III. The Deposits shall, if requested by Buyer, be deposited by Escrow Holder in an interest-bearing bank or savings and loan association account and the accrued interest shall become part of the Deposits. All Deposits shall be made by cash, check or wired funds

Section 3. Paragraph 9 of Subdivision (B) of Section III is hereby amended to read as follows:

9. Conditional Use Permit. The parties acknowledge that the Property is currently zoned C-M (Heavy Commercial – Light Industrial) and that as of the date hereof, it is Buyer's intent to develop the Property for vehicle sales and service, and related businesses. The parties further acknowledge that such intended uses are permitted within the C-M zoning but only with an approved conditional use permit. Buyer shall have **until February 28, 2015** to apply for a conditional use permit and, if an application for a conditional use permit is made, **until June 30, 2015** to obtain a conditional use permit for such intended uses. The Seller agrees to cooperate in the execution of any application or other documentation that may be required, as the owner of the Property, to facilitate Buyer completing such application. All application costs and fees, and any third parties' expenses shall be paid by Buyer. Buyer understands that the Seller cannot make any representations or covenants that its planning agency and its legislative body, if applicable, will approve the Buyer's application; Buyer further acknowledges that the Seller, by approving this Agreement, cannot make a commitment to Buyer's proposed use of the Property.

Section 4. Subdivision (D) of Section III is hereby amended to read as follows:

D. Close of Escrow. For purposes of this Agreement, the "Close of Escrow" shall be defined as the date that the grant deed or deeds conveying the Property to Buyer is or are recorded in the Official Records of San Diego County, California. Escrow shall close on or before sixty (60) days after the Buyer's approval as set forth in paragraphs 2, 3, 4, 5, 6 and 9, of Subdivision (B), above, delivery of the Deposits as set forth in paragraph 2 of Subdivision (B) of Section II, above, and approval of the CLOMR by **(a) FEMA; and (b) Buyer, to the extent of any conditions in the CLOMR to occur within ten (10) days of receipt by Buyer, as set forth in Section VIII, below (the "Closing Date"), but not later than the later of (i) August 31, 2015, or (ii) fifteen (15) days after approval of the CLOMR by FEMA and Buyer.**

Section 5. A new Section VIII, entitled, "**Flood Map Revision**" is added to the Agreement to read as follows:

VIII. **Flood Map Revision**

As a result of the Buyer's investigation of the Property as set forth in Paragraph (8) of Subdivision (B) of Section III, above, it has been determined that the Property will require a Conditional Letter of Map Revision (the "CLOMR") with the Federal Emergency Management Agency ("FEMA") for the Property with the intent to remove the Property from the existing FEMA floodway map. Notwithstanding the obligation of Buyer to be responsible for the costs related to any appeals of the FEMA designation, the parties hereby agree that the Seller will be responsible for procession the application for a CLOMR, and that Buyer will share in the expense incurred by Seller. The parties estimate that the total cost for Seller to process the CLOMR is \$15,000.00. Buyer agrees to contribute up to 50% of the actual the cost for the CLOMR not to exceed \$7,500.00.

Section 5. A new Section IX, entitled "**IRS Section 1031 Exchange**" is added to the Agreement to read as follows:

IX. **IRS Section 1031 Exchange**

The parties acknowledge that Buyer may elect the right to acquire the Property as part of a like-kind exchange transaction by the transfer of this Agreement in whole or in part to a "qualified intermediary" selected by Buyer in connection with a tax-deferred exchange as contemplated by Section 1031 of the Internal Revenue Code of 1986, as amended. Seller agrees to execute a consent and acknowledgment of an assignment of this Agreement as part of such an exchange. Seller agrees to cooperate with Buyer in connection with such tax-deferred exchange, including the execution of such documents as may be reasonably necessary to effectuate the same; provided that (a) the Closing

Date shall not be delayed as the result of such exchange; (b) all additional costs in connection with such exchange shall be borne by Buyer; (c) Seller conveys title to the Property directly to Buyer (or its permitted assignee) by direct deeding and does not take title to any exchange property; and (d) Buyer shall indemnify Seller and hold Seller harmless from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including, without limitation, reasonable attorney fees relating to Seller's participation in such exchange. This agreement and Buyer's obligations hereunder are not subject to or conditioned upon Buyer's ability to consummate an exchange. Seller's responsibility for reviewing exchange documents shall be limited to determining whether the terms and conditions of such exchange documents are such that they are in compliance with the foregoing provisions. Buyer shall be responsible for making all determinations as to the legal sufficiency or other consideration, including, but not limited to tax considerations, relating to such exchange documents. Seller, in so cooperating in any exchange transaction arranged by Buyer, shall in no event be responsible for, or in any way warrant, the tax consequences of the exchange transaction.

Section 6. Except as otherwise modified by this First Amendment the Agreement shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Affordable Housing Agreement effective the date and year first written above.

CITY OF EL CAJON AS SUCCESSOR
AGENCY TO THE EL CAJON
REDEVELOPMENT AGENCY, a charter city
and municipal corporation

Date _____

Douglas Williford, Executive Director

ATTEST:

Belinda A. Hawley, Secretary

JKC EL CAJON, LLC, an Oregon limited
liability company

Date _____

John P. Keifer, Member

APPROVED AS TO FORM:

By: _____
Morgan L. Foley, General Counsel

APPROVED AS TO CONTENT:

By: _____
Majed Al-Ghafry, Assistant City Manager