



## Legislation Text

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**File #:** 18-589, **Version:** 1

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**TO:** Mayor and Commissioners  
**FROM:** R. Max Lohman, City Attorney  
**DATE:** September 25, 2018

RESOLUTION NO. 118-18: A RESOLUTION OF THE CITY OF DELRAY BEACH, FLORIDA APPROVING AN AGREEMENT WITH DELRAY BEACH 4TH & 5TH AVENUE LLC ("DEVELOPER") TO ASSUME THE OBLIGATIONS OF THE "CITY/COUNTY RIGHT OF WAY AGREEMENT FOR UNDERGROUND FACILITIES" BETWEEN THE CITY AND FPL; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THIS AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**Recommended Action:**

Motion to approve an agreement with Delray Beach 4th and 5th Avenue LLC to assume the obligations of the City's agreement with FPL for the installation of underground electrical facilities in City right-of-way to serve the iPic Theater Project.

**Background:**

The City has reviewed and approved plans for the Developer to construct a project known as the iPic Theater within the City of Delray Beach. Project plans include the conversion of all above-ground electric, telephone, cable, and data distribution facilities to underground facilities. Some of these facilities will be located within the City-owned right of way located in the alley south of Atlantic Avenue between SE 4th Avenue and SE 5th Avenue. Pursuant to FPL requirements, the City entered into an agreement to pay FPL the costs of undergrounding these facilities (see Undergrounding agreement approved under Resolution 117-18). The present Agreement requires the Developer to pay all costs related to the Undergrounding agreement between the City and FPL.

**City Attorney Review:**

Approved as to form and legal sufficiency.