

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.

WHEREAS, the City approved a site plan for a development known as the iPic Theater in 2016 (“Project”). Project plans include the conversion of all above-ground electric, telephone, cable, and data distribution facilities to underground facilities.

WHEREAS, a portion of these underground facilities will be located beneath the City-owned alleyway south of Atlantic Avenue between SE 4th Avenue and SE 5th Avenue.

WHEREAS, in order to permit its facilities to be placed underground, FPL entered into an agreement with the City known as “City/County Right of Way Agreement for Underground Facilities” (approved under Resolution 117-18).

WHEREAS, Developer of the Project agrees to assume the City’s obligations of the “City/County Right of Way Agreement for Underground Facilities” that are related to the Project.

WHEREAS, the City Commission deems approval of this Resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

Section 2. The City Commission of the City of Delray Beach has reviewed and hereby approves this Agreement between the City and Delray Beach 4th & 5th Avenue, LLC (“Developer”), a copy of which is attached to this Resolution as Exhibit A.

Section 3. The City Commission authorizes the City Manager to execute the Agreement and any amendments and/or renewals thereto, and to take any other actions necessary to effectuate this Agreement.

Section 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ATTEST:

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M A Y O R

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City Clerk

Approved as to form and legal sufficiency:

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City Attorney