

Prepared by and return to:
Donald J. Doody, Esq.
Goren, Cherof, Doody & Ezrol, P.A.
3099 E. Commercial Blvd., Suite 200
Fort Lauderdale, Florida 33308

FIRST AMENDMENT TO IN-LIEU PARKING AGREEMENT

This In-Lieu Parking Agreement (the "Agreement") is made as of this ____ day of November, 2015, by and between Equity Delray, LLC, a Florida limited liability company (hereinafter "Equity") and the Delray Beach Community Redevelopment Agency (hereinafter "CRA").

WHEREAS, in accordance with the terms of a Tri-Party Agreement to be entered into between the City of Delray Beach "City"), Equity and the CRA, Equity and the CRA are obligated to pay City the amount of \$96,600.00 in lieu of providing 42 of the required parking spaces for the development of certain real property located on the south sided of Atlantic Avenue between SW 6th Avenue and SW 9th Avenue, Delray Beach, Florida (with a 21-space credit for parking constructed within the public rights-of-way); and

WHEREAS, the obligation to make the aforesaid payment inures directly to the benefit of Equity pursuant to the terms of the Tri-Party Agreement; and

WHEREAS, the CRA does not benefit from the payment to the City in lieu of the required parking spaces.

WHEREAS, on November 5, 2015, the CRA Board approved the In-Lieu Parking Agreement between Equity and the CRA.

WHEREAS, Equity and the CRA now mutually agree to amend the In-Lieu Parking Fee Agreement, in accordance with the terms of the Tri-Party Agreement, wherein Equity and the CRA are obligated to pay City the amount of \$87,400.00 in lieu of providing 38 of the required parking spaces for the development of certain real property located on the south sided of Atlantic Avenue between SW 6th Avenue and SW 9th Avenue, Delray Beach, Florida (with a 19-space credit for parking constructed within the public rights-of-way);

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and conditions contained in this Agreement, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Equity and CRA do hereby represent and warrant that the foregoing recitals are accurate and correct and hereby incorporate them in this Agreement.
2. Equity agrees and acknowledges that it shall be solely responsible for the payment to City as set forth below, in lieu of providing 38 required parking spaces for its proposed development:

- (a) One payment in the amount of \$43,700.00 by check delivered to the City upon execution of this Agreement.
 - (b) One payment in the amount of \$21,850.00 is due on the second anniversary of the date of this Agreement.
 - (c) One payment in the amount of \$21,850.00 is due on the third anniversary of the date of this Agreement.
 - (d) Each payment shall be made to:
Finance Department
City of Delray Beach
100 NW First Avenue
Delray Beach, FL 33444
- 3. In the event that Equity fails to tender any payment due under paragraph 2 above, and before any efforts are undertaken by the CRA to seek recourse against Equity or undertake any further legal action, the CRA shall provide Equity with three (3) business days' written notice to cure.
 - 4. In the event of any litigation or any action undertaken to seek such recourse and/or enforce the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs (including appellate attorneys' fees and costs).
 - 5. Equity and CRA have had legal counsel review the Agreement and explain the rights and obligations thereunder and the legal effect thereof.
 - 6. Equity hereby indemnifies and holds the CRA harmless from any and all liability, damages, action or indebtedness arising out of the Agreement with the City and Equity's obligation thereunder.
 - 7. The language of the Agreement is a product of the mutual effort of the Parties and their respective counsel. The Agreement shall be construed fairly as to all Parties, and shall not be construed for or against any Party on the basis (or the extent) to which that Party participated in the drafting of these agreements.
 - 8. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument. The Parties agree that signatures by facsimile and/or .pdf are acceptable and binding, but shall endeavor to substitute original signatures thereafter.
 - 9. This Agreement is binding on, and will inure to the benefit of, the executing Parties and their respective successors in interest and assigns.
 - 10. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter of this Agreement. All prior understandings and agreements between the parties with respect to such matters are merged into this Agreement, which alone fully and completely expresses their understanding.
 - 11. This Agreement may not be amended, modified, altered or changed in any respect, except by a further agreement in writing duly executed by each of the parties to this Agreement.

IN WITNESS WHEREOF, the parties to the Agreement have caused this Agreement to be duly executed on their behalf as of the dates set forth above.

WITNESSES:

Susan Shaw
Print Name: Susan Shaw
Jeffrey A. Costello
Print Name: Jeffrey A. Costello

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

Reginald A. Cox
By: Reginald A. Cox, Chair

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 19th day of November, 2015 by Reginald A. Cox, as Chair of the Delray Beach Community Redevelopment Agency, on behalf of the Agency, who is personally known to me or provided a Florida Driver's License as identification.



Susan B. Shaw
Commission # FF 070388
Expires: Nov. 13, 2017
WWW.AARONNOTARY.com

Susan B. Shaw
Notary Public

WITNESSES:

EQUITY DELRAY, LLC

Print Name: _____

By:
Title:

Print Name: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of November, 2015 by _____, as _____ of Equity Delray, LLC, a Florida limited liability company on behalf of the company, who is personally known to me or provided a _____ Driver's License as identification.

Notary Public

IN WITNESS WHEREOF, the parties to the Agreement have caused this Agreement to be duly executed on their behalf as of the dates set forth above.

WITNESSES:

DELRAY BEACH COMMUNITY
REDEVELOPMENT AGENCY

Print Name: _____

By: Reginald A. Cox, Chair

Print Name: _____

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this ____ day of November, 2015 by Reginald A. Cox, as Chair of the Delray Beach Community Redevelopment Agency, on behalf of the Agency, who is personally known to me or provided a Florida Driver's License as identification.

Notary Public

WITNESSES:

EQUITY DELRAY, LLC

Print Name: REBECA GARCIA

By: _____
Title: _____

Print Name: IVAN GOMEZ

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 19 day of November, 2015 by JOHN FLYNN as Managing Dir. of Equity Delray, LLC, a Florida limited liability company on behalf of the company, who is personally known to me or provided a _____ Driver's License as identification.

Notary Public

