



Cover Memorandum/Staff Report

File #: 24-044 CRA

Agenda Date: 7/23/2024

Item #: 70.

TO: CRA Board of Commissioners
FROM: Renée A. Jadusingh, Esq., Executive Director
DATE: July 23, 2024

4TH & 5TH AVENUE LLC - IPIC - ASSIGNMENT OF PARKING COST SHARING AGREEMENT - 25 SE 4TH AVENUE

Recommended Action:

Approve and authorize the CRA Board Chair to sign the Assignment of Parking Cost Sharing Agreement for 25 SE 4TH Avenue and related documents in a form acceptable to the CRA Legal Counsel.

Background:

On December 12, 2013, the CRA Board approved the Agreement for Purchase and Sale with Delray Beach Holdings, LLC (Holdings) for CRA's Fourth and Fifth properties (former Old Library/Chamber of Commerce sites). The approved project was for the construction of a mixed use building consisting of: 44,979 square-foot iPic Theater (497 seats); 42,446 square feet of Class A office space; 7,487 square feet of retail space; and, a multi-level parking garage with 326 spaces, providing a minimum of 90 public spaces. On March 14, 2017, the CRA and Delray Beach Holdings LLC entered into the Parking Cost Sharing Agreement ("Agreement"), this Agreement was assigned to Delray Beach 4th and 5th Avenue LLC with the consent of the CRA in April 2017.

Per Section 10 of the Agreement:

"This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. Notwithstanding the foregoing, the rights and obligations provided hereunder can be assigned only to an affiliated entity of Holdings owning the Project upon notice to the CRA, but without the consent of the CRA. All other assignments of the rights and obligations made hereunder shall require the written consent of the CRA, which shall not be unreasonably withheld."

Per the Agreement, 4th & 5th Avenue LLC has requested that the CRA give consent to the Assignment of the Agreement to 4th & 5th Delray Property Owner LLC. 4th and 5th Avenue LLC contends that they are conveying the Property to an affiliated entity as 4th & 5th Delray Property Owner LLC is the developer and manager of the Property. However, they are seeking the CRA's written consent to ensure the proper process is observed for the Assignment of the Agreement.

At this time, CRA Staff is recommending the CRA Board to Approve and Authorize the CRA Board Chair to sign the Assignment of Parking Cost Sharing Agreement for 25 SE 4TH Avenue and related documents in a form acceptable to the CRA Legal Counsel.

Attachment(s): Exhibit A - Assignment of Parking Cost Sharing Agreement; Exhibit B - Parking Cost Sharing Agreement.; Exhibit C - 2017 Assignment of Parking Cost Sharing Agreement

CRA Attorney Review:

The CRA Legal Advisor reviewed all documents and found them to be acceptable.

Funding Source/Financial Impact:

N/A

Overall need within the Community Redevelopment Area from Delray Beach CRA

Redevelopment Plan:

Removal of Slum and Blight

Land Use

Economic Development

Affordable Housing

Downtown Housing

Infrastructure

Recreation and Cultural Facilities