



Cover Memorandum/Staff Report

File #: 18-0673 CRA

Agenda Date: 9/29/2020

Item #: 8B.

TO: CRA Board of Commissioners
FROM: Renée A. Jadusingh, Esq., Executive Director
DATE: September 29, 2020

FIRST AMENDMENT TO THE PARKING COST SHARING AGREEMENT WITH DELRAY BEACH 4TH AND 5TH AVENUE, LLC

Recommended Action:

Authorize the Board Chair to execute the First Amendment to the Parking Cost Sharing Agreement by and between Delray Beach 4th and 5th Avenue, LLC and the Delray Beach Community Redevelopment Agency.

Background:

At its meeting of December 12, 2013, the CRA Board approved the Agreement for Purchase and Sale for CRA's Fourth and Fifth properties for the construction of a mixed use building consisting of: iPic Theater; Class A office space; feet of retail space; and, a multi-level parking garage providing public spaces.

On March 17, 2017, the CRA executed a Parking Cost Sharing Agreement with Delray Beach Holdings, LLC (Assigned to Delray Beach 4th & 5th Avenue, LLC on May 15, 2017) to assist with the maintenance cost for the public parking spaces for \$75,000 per year with an allowance for CPI increases annually.

Delray Beach 4th & 5th Avenue hereby seeks to amend the Parking Cost Sharing Agreement to reduce the CRA's annual maintenance payments in the Parking Cost Sharing Agreement for the parking garage from \$75,000 annually to \$50,000 annually with zero allowance for CPI increases, as well as forgiving the annual maintenance payments for years 2019, 2020, and 2021 as consideration for modifications to the City of Delray Beach Parking Facility Easement Agreement and Project Covenant for 4th & 5th Delray.

City Parking Facility Easement Agreement and Project Covenant for 4th & 5th Delray:

At its meeting of January 20, 2016, the Site Plan Review and Appearance Board approved the Class V site plan for the iPic movie theater, offices, and retail for the project known as "4th & 5th Delray". A condition of approval required the applicant to record a covenant related to the applicant's obligation to require iPic to relocate its corporate headquarters to the project as well as, allow non-exclusive public use of the upper level, fourth floor terrace garden area and corresponding access ("Public Terrace"). The covenants for the corporate headquarters and the Public Terrace were included in the Parking Facility Easement Agreement and Project Covenant.

Delray 4th & 5th has approached the City to seek relief from the sections of the Parking Facility Easement Agreement and Project Covenant for 4th & 5th Delray. Recently, Delray Beach 4th & 5th Avenue announced the corporate relocation of International Materials, Inc. a trading and logistics provider to the third floor of the project. While showing the third floor to prospective tenants, several became interested in the fourth floor for a possible corporate relocation. Despite all of the additional interest on the fourth floor, all prospects have indicated that the easement for the public terrace was a "deal-breaker" due to security concerns of mixing the public with an active corporate headquarters. In recent weeks Delray Beach 4th & 5th Avenue has finalized a

letter of interest with another corporate headquarters relocation to bring another 100 employees to the downtown, however in order to finalize the deal, the Parking Facility Easement Agreement and Project Covenant for 4th & 5th Delray must be amended.

In consideration for the amendment to the Parking Facility Easement Agreement and Project Covenant for 4th & 5th Delray, Delray Beach 4th & 5th Avenue has proposed to reduce the CRA's annual maintenance payments in the Parking Cost Sharing Agreement for the parking garage from \$75,000 annually to \$50,000 annually with zero allowance for CPI increases, as well as forgiving the annual maintenance payments for years 2019, 2020, and 2021.

This reduction would allow for the CRA to realize a cost savings that can be used on other redevelopment activities throughout the CRA District.

Attachment(s): Exhibit A - Location Map; Exhibit B - Parking Cost Sharing Agreement; Exhibit C - First Amendment to the Parking Cost Sharing Agreement

CRA Attorney Review:

The CRA Attorney has reviewed the First Amendment to the Parking Cost Sharing Agreement as to form and determined it to be acceptable.

Finance Review:

RETURN FUNDS PAID? I BELIEVE ABOUT 200 PAID OUT.