



## Legislation Text

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File #: 17-120, Version: 1

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**TO:** Mayor and Commissioners  
**FROM:** John Morgan, Director Environmental Services Department  
**THROUGH:** Chief Neal de Jesus, Interim City Manager  
**DATE:** February 7, 2017

FOURTH & FIFTH DELRAY HOLD HARMLESS AGREEMENT FOR WORK PERFORMED WITHIN THE STATE OF FLORIDA RIGHT-OF-WAY

**Recommended Action:**

Motion to accept a Hold Harmless Agreement for work in Florida Department of Transportation's (FDOT) right-of-way.

**Background:**

The Fourth & Fifth Delray Project is the redevelopment of 1.71 acres of an existing site. The site is located south of an alley approximately 185 feet south of Atlantic Avenue; east of SE 4th Avenue; west of SE 5th Avenue; and north of SE 1st Street in the City of Delray Beach. The site will be developed into a 43,629 SF movie theater (IPIC), 8,224 SF retail space, 42,660 SF office space, and a 275 space parking garage. The project will also include the construction of a stormwater management system and utility infrastructure. The utility infrastructure will include a water main connection in the State right-of-way (Federal Highway) and any pavement restoration associated with this work. In order to apply for a FDOT Utility Permit the City is required to sign an application on behalf of the Developer to allow the installation/construction to take place in the State right-of-way.

The proposed Hold Harmless Agreement requires Developer to hold harmless and defend the City and the State for the work performed in the aforementioned right-of-way.

After the execution of this agreement is finalized, the City will sign the permit application for the work performed in the State right-of-way.

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Finance Department Review:**

Finance recommends approval.

**Funding Source:**

N/A

**Timing of Request:**

Timing of this item is very important. The developer is required to have all permits in hand prior to closing of property. Approval of this Hold Harmless Agreement is required to submit utility permit to

FDOT.