

# Mayor and Council Communication

DATE: 03/23/21

M&C FILE NUMBER: M&C 21-0200

LOG NAME: 17CYPRESS380ASSIGNMENT5

## **SUBJECT**

(CD 9) Authorize Execution of a Consent to Assignment of City Secretary Contract Number 36633, as Amended, an Economic Development Program Agreement with Carlyle/Cypress West 7th II, LP and CRP Cypress West 7th Residential, L.P., to Allow Assignment of the Agreement to KV West 7th Apartments, LLC or an Affiliate

## **RECOMMENDATION:**

It is recommended that the City Council authorize the execution of a consent to assignment of City Secretary Contract no. 36633, as amended, an Economic Development Program Agreement with Carlyle/Cypress West 7th II LP and CRP Cypress West 7th Residential, L.P., to allow an assignment of the agreement to KV West 7th Apartments, LLC or an affiliate.

## **DISCUSSION:**

The purpose of this Mayor and Council (M&C) Communication is to authorize a Consent to Assignment of City Secretary Contract No. 36633, as amended, an Economic Development Program Agreement (Agreement), to allow an assignment from Carlyle/Cypress West 7th II, LP and CRP Cypress West 7th Residential, L.P. (Assignors) to KV West 7th Apartments, LLC or an affiliate (Assignees)

The City and Assignors are currently parties to the Agreement, under which the City agreed to pay Assignors certain economic development program grants in return for Assignor's construction of the mixed-use development at West 7<sup>th</sup> Street and University Drive. (M&C Nos. C-22283, C-24722, C-25123, C-28537). The amount of each annual grant is capped at 75 percent of increased real and personal property taxes as well as sales taxes attributable to the site. In addition, the aggregate amount of grants that Carlyle can receive over the 15-year period is dependent on whether Carlyle meets one of three possible levels of investment and construction defined in the agreement.

On April 24, 2019, Carlyle/Cypress West 7th, LP assigned all of its rights and obligations under the Agreement to the Assignors. The Assignors now desire to assign their rights and obligations under the Agreement to KV West 7th Apartments, LLC.

The City has also previously consented to assignments of this Agreement for security purposes to General Electric Capital Corporation (CSC 36633-CA1), Canadian Imperial Bank of Commerce (CSC 36633-CA2), and Marathon Real Estate Debt Fund, LP (CSC 36633-CA4).

The Assignors met all obligations required by the Agreement, and the Assignee will be required to meet all ongoing obligations of under the Agreement. The City will continue to receive the public benefits resulting from the development of this project. Any future assignment of the Agreement by the Assignee would have to be approved by City Council, unless otherwise agreed to in the Agreement. There are up to six (6) grant years remaining under the agreement.

Staff represents that the Assignee is financially capable of meeting the terms and conditions of the Agreement, and City Council finds for the same.

Staff recommends approving the Consent to Assignment of the Agreement.

The Cypress West 7<sup>th</sup> development is located in COUNCIL DISTRICT 9.

## **FISCAL INFORMATION / CERTIFICATION:**

The Director of Finance certifies that approval of this agreement will have no material effect on the Fiscal Year 2021 Budget. While no current year impact is anticipated from this action, any effect on expenditures and revenues will be budgeted in future Fiscal Years and will be included in the long-term financial forecast.

**Submitted for City Manager's Office by:** Jay Chapa 5804

**Originating Business Unit Head:** Robert Sturns 2663

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