



City of Rialto

Legislation Details (With Text)

File #: 21-0716 **Version:** 1 **Name:**
Type: Resolution/Agreement **Status:** Approved
File created: 9/30/2021 **In control:** City Council
On agenda: 10/12/2021 **Final action:** 10/12/2021

Title: Request the City Council Adopt a Resolution No. 7782 of the Successor Agency to the Rialto Redevelopment Agency Approving a Purchase and Sale Agreement by and between the Successor Agency to the Rialto Redevelopment Agency and NewMark Merrill Companies, LLC, for 15.09 Acres Located West of Riverside Avenue and North of Valley Boulevard at a Purchase Price of \$3,508,758; and Approve a First Amended and Restated Exclusive Negotiating Agreement by and between the City of Rialto and NewMark Merrill Companies, Inc. Relating Thereto. **UPDATED STAFF REPORT (ACTION)**

Sponsors:

Indexes:

Code sections:

Attachments: 1. Exhibit A - Resolution - Approving PSA.pdf, 2. Exhibit B PSA.pdf, 3. Exhibit C - Amended Restated ENA.pdf, 4. Exhibit D - NewMark SOQ Part 1.pdf, 5. Exhibit D - NewMark SOQ Part 2.pdf, 6. FINAL PSA - Purchase and Sale Agreement (Newmark Merrill Riverside Avenue).v.7.(10.09.21).pdf, 7. FINAL Resolution Approving PSA.v.4.(10.09.21).pdf, 8. FINAL ENA - NewMark Merrill 1st Am and Rest ENA.v.5.(10-9-21).pdf

Date	Ver.	Action By	Action	Result
10/12/2021	1	City Council		

For City Council Meeting [October 12, 2021]

TO: Honorable Mayor and City Council

APPROVAL: Marcus Fuller, City Manager

FROM: Marcus Fuller, City Manager

Request the City Council Adopt a Resolution No. **7782** of the Successor Agency to the Rialto Redevelopment Agency Approving a Purchase and Sale Agreement by and between the Successor Agency to the Rialto Redevelopment Agency and NewMark Merrill Companies, LLC, for 15.09 Acres Located West of Riverside Avenue and North of Valley Boulevard at a Purchase Price of \$3,508,758; and Approve a First Amended and Restated Exclusive Negotiating Agreement by and between the City of Rialto and NewMark Merrill Companies, Inc. Relating Thereto. **UPDATED STAFF REPORT (ACTION)**

BACKGROUND:

The Successor Agency's Long-Range Property Management Plan identifies several parcels within the Gateway commercial area that are intended for future economic development, including a 15.5 acre residual site remaining after the development of Fire Station 205, located to the west of Riverside Avenue and north of Valley Boulevard (the "Property"). The Property is generally shown below.



In 2017, the City Council entered an Exclusive Right to Negotiate Agreement (the “Initial ENA”) with NewMark Merrill Companies, LLC (the “Developer”) as the preferred developer for a commercial center on the site. The Initial ENA subsequently expired.

On November 18, 2020, the Economic Development Committee (EDC) met with the Developer to discuss potential tenants for the site. At the conclusion of the meeting, the EDC directed staff to present a new Exclusive Right to Negotiate Agreement (the “Subsequent ENA”) with the Developer to the City Council for consideration.

On December 8, 2020, the City Council approved the Subsequent ENA consistent with direction provided by the EDC. On April 28, 2021, the Developer presented the EDC an update on their leasing commitments on the commercial center.

On June 22, 2021, the City Council approved a First Amendment to the Subsequent ENA. The First Amended and Restated Exclusive Negotiation Agreement (the “ENA”) presented at this meeting clarifies and restates the terms of the Subsequent ENA, including clarification that the CEQA process for the development of the Property must commence before opening escrow to sell the Property and the CEQA process must be completed prior to closing escrow and conveying the Property to the Developer.

The Developer that is party to the ENA and the PSA recently constructed the out-parcels in the Rialto Marketplace development. It is a prominent Southern California shopping center developer (see Developer’s Statement of Qualifications attached as **Exhibit D**).

ANALYSIS/DISCUSSION:

An ENA confers no development rights, but is simply a good faith statement of the party’s intention to negotiate a development agreement on terms acceptable to both parties. The ENA allowed the Developer to prepare proposals, conduct feasibility assessments, and market the Site to potential

users. The ENA will automatically terminate on the earlier of (i) the City and Developer entering into a mutually agreeable Development Agreement, or (ii) December 31, 2022.

The Purchase and Sale Agreement (the “PSA”) if approved by the Successor Agency, the Oversight Board, and the Department of Finance, will supersede the ENA. The PSA provides for the sale of the Property at a purchase price of price of \$3,508,758 as determined by an MAI appraisal, dated June 28, 2021. The PSA provides that, among other conditions to completing the sale of the property, the Developer must enter into a Development Agreement with the City. The Development Agreement will be negotiated during the escrow period provided for in the PSA. It will set forth the respective rights and obligations of the parties with respect to the proposed development of the property. The PSA also provides that consummating the transaction is conditioned upon appropriate analysis under the California Environmental Quality Act (“CEQA”) and approval by the City Council of the resulting CEQA document.

ENVIRONMENTAL IMPACT:

The requests are not a “Project” as defined by the (CEQA). Pursuant to Section 15378(a), a “Project” means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The PSA contains a provision requiring completion and approval of appropriate CEQA analysis and documentation of a proposed development project as a condition of closing the sale of the property. The approval of the PSA is an administrative activity of government that will not result in the direct or indirect physical changes in the environment and therefore exempt pursuant to Section 15378(b) of the CEQA Guidelines.

GENERAL PLAN CONSISTENCY:

The proposed action fulfills the following General Plan Goals and Policies related to Economic Development:

Goal 3-1: Strengthen and diversify the economic base and employment opportunities, and maintain a positive business climate.

Policy 3-1.2: Encourage a variety of businesses to locate in Rialto, including retail, high technology, professional services, clean industries, logistics-based businesses, and restaurants/entertainment uses to promote the development of a diversified local economy.

Policy 3-1.4: Encourage the consolidation of smaller lots of industrial and commercial areas to attract larger industrial businesses or commercial projects.

The proposed transaction will encourage retail, restaurant, and entertainment uses to locate in Rialto, while consolidating disjointed lots into a suitable development parcel.

LEGAL REVIEW:

The City Attorney reviewed and approved the staff report, Resolution, the Purchase and Sale Agreement, and the First Amended and Restated Exclusive Right to Negotiate Agreement.

FINANCIAL IMPACT:

Operating Budget Impact

The City will receive its share of the net proceeds from the sale of the Property.

Capital Improvement Budget Impact

This action has no impact to the Capital Budget.

RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt the Resolution (**Exhibit A**) approving the Purchase and Sale Agreement (**Exhibit B**) by and between the Successor Agency to the Rialto Redevelopment Agency and NewMark Merrill;
2. Approve the First Amended and Restated Exclusive Negotiation Agreement (**Exhibit C**) by and between the City of Rialto and NewMark Merrill;
3. Except as to the price and terms of payment, authorize the City Attorney and City Manager to make modifications to such agreements as may be necessary or desirable to implement the transactions in accordance with the Successor Agency Board's direction; and
4. Authorize the City Manager to execute all required documents.