



# City of Rialto

## Legislation Details (With Text)

**File #:** CC-19-346    **Version:** 1    **Name:**  
**Type:** Resolution    **Status:** Agenda Ready  
**File created:** 3/19/2019    **In control:** City Council  
**On agenda:** 4/9/2019    **Final action:**  
**Title:** Request City Council to Adopt Resolution No. 7496 Approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Sirwin Enterprises LLC, and Adopt Budget Resolution No. 7497 amending the FY18/19 Budget to increase expenditures of \$403,861.19 for Regional Traffic Fee Street Improvements and \$31,500.00 for RSP Traffic Fee signal modifications and to increase Revenues of \$189,072.00 for the Regional Traffic Fee and \$31,500.00 for the RSP Traffic Fee Program.  
(ACTION)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Map, 2. Exhibit B - Site Plan, 3. Exhibit C - PPD No. 2018-0041, 4. Exhibit D - Construction Credit and Reimbursement Agreement, 5. Exhibit E - Construction Cost Estimate, 6. Exhibit F - Summary of Fee Credits and Reimbursements for Sirwin FCA, 7. Exhibit G - Agreement Resolution, 8. Exhibit H - Budget Resolution

Date	Ver.	Action By	Action	Result
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For City Council Meeting [April 9, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Sean Grayson, Interim City Administrator

FROM: Robb Steel, Assistant CA/Development Services Director

Request City Council to Adopt **Resolution No. 7496** Approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Sirwin Enterprises LLC, and Adopt Budget **Resolution No. 7497** amending the FY18/19 Budget to increase expenditures of \$403,861.19 for Regional Traffic Fee Street Improvements and \$31,500.00 for RSP Traffic Fee signal modifications and to increase Revenues of \$189,072.00 for the Regional Traffic Fee and \$31,500.00 for the RSP Traffic Fee Program.  
**(ACTION)**

**BACKGROUND:**

Sirwin Enterprises LLC (“Developer”) submitted various planning and development applications (PPD 2018-0041 and EAR 2018-0096) to the City to develop a retail center (Phase 1 consists of a 4,500 square foot convenience store and quick service restaurant and Phase 2 consists of a 3,000 square foot drive through restaurant and 8,500 square foot multi-tenant building). The Project is located on 2.98 acres of land at the southwest corner of Ayala Drive and Casmalia Street (the “Project”) (see map attached as **Exhibit A and Project Site Plan as Exhibit B**).

On July 12, 2018, the Transportation Commission approved the Traffic Study for the Project and set related conditions of approval. On November 14, 2018, the Development Review Committee (DRC) approved the Precise Plan of Design subject to Conditions of Approval (**Exhibit C**). The Conditions of Approval for the Project require Developer to construct specified off-site improvements in accordance with the Renaissance Specific Plan (Off-Site Improvements) including:

- (i) Widening and reconstructing the existing roadways along the Project's frontages on the north and south side of the centerline of Casmalia Street; and,
- (ii) Modifying the traffic signal at Casmalia Street and Ayala Drive.

Developer agreed to construct the Off-Site Improvements subject to a Construction Fee Credit and Reimbursement Agreement (**Exhibit D**). Section 3.33.100 of the Rialto Municipal Code (Fee Credits) states that:

*...if as a condition of approval of a development project a Developer constructs a public facility identified in a Nexus Report for which a development impact fee is imposed, then the Developer shall be eligible to receive a fee credit toward the development impact fee imposed on the development project for the same type of public facility so constructed. The Developer shall not be entitled to reimbursement for any excess in the costs to construct the public facility over the amount of the Developer's obligation to pay the development impact fee for the type of public facility constructed, unless a separate reimbursement agreement is approved by the City Council.*

## **ANALYSIS/DISCUSSION:**

### Fee Credits and/or Reimbursements

Section 3.33.110 of the Rialto Municipal Code (Construction and Credit Agreements) permits the City Administrator to negotiate a construction and credit agreement requested by a Developer, subject to City Council approval. The City Building Official or the City Engineer shall determine the amount of the fee credit based upon the evidence of costs to construct the fee credit eligible public facility submitted by the Developer.

The Regional Traffic Fee Program (Measure I) identifies the widening of Casmalia Street from 2-4 lanes, commencing from Locust Avenue to Ayala Drive as an eligible improvement. The Regional Traffic Fee Program (RMC 3.33.160) compensates developers for constructing roadway capacity improvements, including roadway widening, curb/gutter/sidewalks, and streetlights (complete streets). It does not provide credit or reimbursement for parkway landscaping, utility relocation or utility undergrounding.

The signal light modification at the Casmalia Street and Ayala Drive intersection also qualifies as an eligible improvement under the Renaissance Specific Plan Traffic Fee Program (RSP Traffic Fee) (RMC 3.33.280).

The Project owes an estimated \$189,072 in Regional Traffic Development Impact Fees. The estimated construction cost for the eligible Regional Traffic Fee improvements is \$403,861. Because this cost exceeds the Project's Regional Traffic Fee obligation of \$189,072, Developer requests a full fee credit, and reimbursement for the actual costs exceeding the Project's Regional Traffic Impact Fee. The City's reimbursement obligation from Regional Traffic Fees is therefore \$214,789. The cost estimate for the street improvements is attached hereto as **Exhibit E**.

The Project owes an estimated \$32,679.50 for RSP Traffic Development Impact Fees. The estimated construction cost for the traffic signal modification is \$31,500. The fee credit is equal to \$31,500, and the Developer will pay the City \$1,179.50 difference.

The table below summarizes the Off-Site Improvement costs, estimated fee credits, and potential reimbursements:

**ESTIMATED FEE CREDITS/REIMBURSEMENTS**

	Fund #	Eligible Costs	Fee Obligations	Estimated Fee Credit	City Reimbursement	Developer Pays
<b>Casmalia Avenue - Street Improvements</b>						
Casmalia Street Improvements	Fund 250	\$ 403,861.19	\$ 189,072.00	\$ (189,072.00)	\$ 214,789.19	\$ -
Ayala/Casmalia Traffic Signal Modification	Fund 301	\$ 31,500.00	\$ 32,679.50	\$ (31,500.00)	\$ -	\$ 1,179.50
<b>TOTAL:</b>		<b>\$ 435,361.19</b>	<b>\$ 221,751.50</b>	<b>\$ (220,572.00)</b>	<b>\$ 214,789.19</b>	<b>\$ 1,179.50</b>

Section 5.3.4 of the Agreement specifies that the Developer shall have no right to receive the reimbursements of \$214,789.19 (Reimbursement) unless and until all of the following are met: (i) the Off-Site Improvements are completed and accepted by the City, (ii) the City has sufficient funds in the City’s Regional Traffic Fee and Street Median Development Impact Fee Accounts to pay the Reimbursement, and (iii) the City Council appropriates said funds to pay the Reimbursement in accordance with the priority schedule for City Council approved projects. Staff prepared a five-year impact fee model based on existing and future projected revenue and projects and determined sufficient funds exists to reimburse the Developer. The Project shall become the top priority project following reimbursement to the higher priority projects identified on **Exhibit F**.

Condition Number 116 imposed by the Precise Plan of Design required construction of a raised median on Casmalia Avenue along the project frontage in accordance with the Renaissance Specific Plan. On December 19, 2018, the Economic Development Committee reviewed raised medians on Casmalia Avenue for the development by Operon (on Casmalia between Cedar Avenue and Linden Avenue) and recommended against construction of a raised median. The City Council will waive the requirement of a raised median with approval of the Fee Credit and Reimbursement Agreement.

**ENVIRONMENTAL IMPACT:**

On November 14, 2018, the Development Review Committee adopted a Mitigated Negative Declaration (EAR 2018-0096) for the Project. This environmental review analyzed the construction of the on-site private and off-site public improvements. No further environmental review is warranted.

Approval of the Construction Fee Credit and Reimbursement Agreement is an administrative or fiscal action by the legislative body that will not result in any additional a direct or indirect physical change in the environment than what was already analyzed (Section 15378(b) of the California Environmental Quality Act (CEQA) Guidelines).

**GENERAL PLAN CONSISTENCY:**

The City of Rialto has identified several goals and objectives within the City’s recently adopted General Plan through which the City looks to improve the community. The proposed action to acquire right-of-way is consistent with the following goals and objectives contained in the General Plan:

- Goal 3-1: Strengthen and diversify the economic base and employment opportunities, and maintain a positive business climate.
- Goal 3-6: Require that all developed areas within Rialto are adequately served with essential public services and infrastructure.

Goal 3-7: Upgrade public infrastructure as an inducement to promote private investment.

**LEGAL REVIEW:**

The City Attorney prepared the Construction Fee Credit and Reimbursement Agreement, reviewed, and approved the staff report and Resolution.

**FINANCIAL IMPACT:**

Operating Budget Impact

There are no immediate impacts to operating budget. The additional roadway improvements will increase street maintenance expenditures in the future.

Capital Budget Impact

The City normally receives Development Impact Fees at issuance of building permits. In this case, Developer will receive a credit up to the estimated cost of eligible improvements at building permit issuance, and a claim for reimbursement for any excess costs. Upon completion, staff will verify the final costs and the City/Developer will make reconciliation payments as appropriate in accordance with the terms of the Construction Fee Credit and Reimbursement Agreement.

Developer intends to pull its building permit for the Project before July 1, 2019. The City did not previously budget the fee credits and reimbursement payments to Developer in the FY18/19 Budget. Staff recommends that the City Council approve a Budget Resolution amending the FY18/19 Budget to increase appropriations by \$403,861.19 (combined credit and reimbursement amount) from Fund 250 to Account 250-500-4312-3001 for Regional Traffic Fee street improvements and to increase appropriations of \$31,500.00 (credit amount) from Fund 301 to Account No. 301-500-4312-3001. The Budget Resolution also amends the FY18/19 Budget to appropriate the estimated credit amounts of \$189,072.00 to Account 250-400-4312-3001 and \$31,500.00 to Account No. 301-400-4312-3001.

The City intends to pay the reimbursement amounts immediately upon completion of the Off-Site Improvements, the acceptance as complete by the City Council, and the availability of Regional Traffic Fee Funds pursuant to Section 5.3.4 of the Construction Fee Credit and Reimbursement Agreement.

Licensing

Contractors performing the off-site street improvements are required to obtain a business license.

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Adopt a Resolution (**Exhibit G**) Approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Sirwin Enterprises.
2. Approve a Budget Resolution (**Exhibit H**) Amending the FY18/19 Budget by increasing appropriations in the Regional Traffic Fund Account No. 250-500-4312-3001 in the amount of \$403,861.19 (combined credit and reimbursement amount) and the Renaissance Specific Plan Traffic Fee Account No. 301-500-4312-3001 in the amount of \$31,500.00 (credit amount) and increasing appropriations in the Regional Traffic Fund Account No. 250-400-4312-3001 in the amount of \$189,072.00 (estimated credit amount) and in the Renaissance Specific Plan Traffic Fee Account No. 301-400-4312-3001 in the amount of \$31,500.00 (estimated credit amount).
3. Approve recommendation of the Economic Development Committee to eliminate Precise Plan of Design Condition #116 requiring Sirwin Enterprises to erect a raised median along the parcel frontage on Casmalia Avenue in accordance with the Renaissance Specific Plan.