



City of Rialto

Legislation Details (With Text)

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On agenda: 9/13/2022 **Final action:**
Title: Request City Council to: (1) Approve the Second Implementation Agreement with Ayala & 210 Partners, LLC; and (2) Authorize the City Manager to Execute All Documents.

Sponsors:

Indexes:

Code sections:

Attachments: 1. SECOND IMPLEMENTATION AGREEMENT.pdf

Date	Ver.	Action By	Action	Result
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For City Council Meeting [September 13, 2022]

TO: Honorable Mayor and Council

APPROVAL: Marcus Fuller, City Manager

FROM: Eric Vail, City Attorney

Request City Council to: (1) Approve the Second Implementation Agreement with Ayala & 210 Partners, LLC; and (2) Authorize the City Manager to Execute All Documents.

BACKGROUND

On April 24, 2018, the City of Rialto (“City”) and Ayala & 210 Partners, LLC (“Developer”) entered into a Purchase and Sale Agreement (“Purchase and Sale Agreement”) pursuant to which the City agreed to sell and the Developer agreed to purchase approximately 7.5 acres of real property located at the northeast corner of Renaissance Parkway and Ayala Drive in the City of Rialto (“Entire Property”). The Entire Property consists of six (6) separate parcels known as Parcel 1, Parcel 2, Parcel 3, Parcel 4, Parcel 5, and Parcel 6, generally shown in Figure 1 below.



**Note, currently available aerial imagery does not show completion of City parking lot on Parcel 5 or Texas Roadhouse on Parcel 6.*

Concurrently with entering into the Purchase and Sale Agreement, the Developer executed a Purchase Money Promissory Note Secured by Deed of Trust (“Purchase Money Note”) for the sum of \$3,221,680 and entered into a Construction Loan Agreement (“Construction Loan Agreement”) for the sum of \$3,700,000, together with a Construction Promissory Note Secured by Deed of Trust (the “Construction Note”).

Subsequently, the Developer entered into amendments to the Construction Loan Agreement and the Construction Note increasing the principal sum to four million dollars (\$4,000,000).

The Developer has sold Parcels 1, 2, 3, and 6 for development of the following:

Parcel 1	Cracker Barrel Restaurant
Parcel 2	Sonic Drive-in Restaurant
Parcel 3	Dutch Bros Coffee
Parcel 6	Texas Roadhouse Restaurant

On June 1, 2021, the Developer and the City entered into a Purchase and Sale Agreement in which Developer agreed to sell and the City agreed to purchase Parcel 5 for the purpose of developing a public parking lot. The City purchased Parcel 5 for \$3,618,499.97 as debits against the Purchase Money Note and the Construction Note in the amounts of \$1,130,315.80 and \$2,488,151.17, respectively, thereby reducing the Developer’s obligations under the Notes.

Also on June 1, 2021, the Developer and City entered in that certain Implementation Agreement (“First Implementation Agreement”) in which the parties agreed that the City would be entitled to receive sixty percent (60%) of the net sale proceeds of the first of Parcel 3 or Parcel 4 to close and that fifty percent (50%) of all accrued interest under the Construction Note would be forgiven concurrently with the release of the first of Parcel 3 or Parcel 4 to close.

On July 25, 2022, escrow closed on Parcel 3 and the City received 60 percent (60%) of the net proceeds in the amount of \$629,531.48 and 50% of all accrued interest under the Construction Note was forgiven concurrently with the release of Parcel 3.

ANALYSIS/DISCUSSION

The Developer has identified a buyer for Parcel 4 and is requesting that the City enter into a Second Implementation Agreement to provide that upon the close of escrow on Parcel 4, the City shall be entitled to receive a portion of the net sale proceeds in the greater amount of (i) \$370,468.52 or (ii) fifty percent (50%) of the Net Sale Proceeds, and the Developer shall be entitled to the remaining balance of the Net Sale Proceeds, if any.

The outstanding amounts of accrued interest under the Purchase Money Note and the Construction Note will be forgiven concurrently with the release of Parcel 4. This ensures that the City receive no less than \$1 million in aggregate proceeds from the sale of Parcels 3 and 4 because the amount of \$370,468.52 when added to the proceeds received from the sale of Parcel 3 equals \$1 million. To the extent the Developer is able to obtain proceeds in an amount greater than \$740,947.04, the City will receive 50% of such amount.

ENVIRONMENTAL IMPACT

The proposed action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(b) of the State CEQA Guidelines, a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

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.

Policy 3-1.6: Attract regional commercial uses along the SR-210 Freeway and I-10 Freeways, particularly at on - and off-ramps.

LEGAL REVIEW

The City Attorney has approved the Agreement and the staff report.

FINANCIAL IMPACT

Approval of the Agreement will result in revenue to the General Fund in the amount of \$370,468.52, and increased sales tax receipts and property tax receipts, all subject to the successful sale and development of Parcel 4.

RECOMMENDATIONS

Staff recommends that the City Council:

- (1) Approve Second Implementation Agreement with Ayala & 210 Partners, LLC and the City of Rialto; and
- (2) Authorize the City Manager to Execute All Documents