



# City of Rialto

## Legislation Text

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For the City Council and Rialto Housing Authority Meeting [December 12, 2017]

TO: Honorable Mayor/Chair and City Council/Board Members

APPROVAL: Michael Story, City Administrator/Executive Director

FROM: Robb Steel, Assistant City Administrator/Development Services Director  
Robert G. Eisenbeisz, P.E., Public Works Director/City Engineer

Request Rialto Housing Authority Approve (1) the First Amendment to the Affordable Housing, Financing and Disposition and Development Agreement by and between the Rialto Metrolink South Housing Partners LP and the RHA, and (2) the Amendment to the Promissory Note between the Rialto Metrolink South Housing Partners LP and the Rialto Housing Authority increasing the Debt from \$250,000 to \$450,000; Request the City Council Authorize (3) the Release of Request for Bid No. 18-052 for the Metrolink Parking Lot Expansion Project, City Project No. 170808; Request the City Council and the Rialto Housing Authority Approve a (4) Purchase and Sale Agreement conveying a portion of Rialto Housing Authority property situated on the north side of Bonnie View Drive and west of Riverside Avenue (APN 0130-021-33 and APN 0131-021-40) to the City of Rialto for total cost of \$359,000.

**(ACTION)**

### **BACKGROUND:**

On June 28, 2016, the Rialto Housing Authority (RHA) approved an Affordable Housing, Financing and Disposition and Development Agreement (“Agreement”) by and between the Rialto Metrolink South Housing Partners LP (“Developer”) and the RHA for development of a 64-Unit affordable housing rental project (“Project”). The Developer will construct the Project on an RHA site of 2.56 acres situated northerly of Bonnie View Avenue, westerly of Riverside Avenue, and southerly to the Metrolink Station (APN 0130-021-33 and APN 0131-021-40 or “Site”). The site map is attached hereto as **Exhibit A** and the approved Agreement as **Exhibit B**.

The Developer is a partnership of National Community Renaissance, Related California, and LaBarge Industries. The Agreement established the following responsibilities between the parties:

### RHA Obligations

- Convey the Site to Developer when the Developer has satisfied all of the following conditions precedent: (1) obtained all financing commitments for project construction, (2) secured all land use entitlements and building permits, and (3) complied with other conditions precedent to closing, as set forth in the Agreement. **The Developer has secured all land use entitlements, but has not yet obtained financing commitments or building permits.**

- Provide a pre-development loan prior to land conveyance, subject to actual costs incurred. The maximum pre-development loan amount is \$250,000. If either party terminates the Agreement prior to conveyance of the Site to Developer, and the Developer is not in default, the Developer shall not be required to reimburse the RHA any amounts advanced but the Housing Authority will own design and engineer plans. **The Developer submitted a reimbursement request and the RHA paid \$250,000 to the Developer.**
- The maximum loan amount is \$5,500,000 of former Redevelopment Agency housing bonds, consisting of the Site purchase amount (\$950,000), the development cost amount (\$4,300,000), and pre-development amount (\$250,000) (the "RHA Loan"). **The RHA continues to hold \$4,300,000 in housing bonds for the future project.**

#### Developer Obligations

- Secure all permanent financing as specified in the Agreement, including 9% tax credits and project-based vouchers from the Housing Authority of the County of San Bernardino. Submit up to four (4) consecutive applications to secure 9% tax credits, starting with the application round of June 2016 and ending in March 2018 (the RHA Executive Director may extend the outside date to not later than December 31, 2018). Apply for the June 2016 9% tax credit round by the June 29, 2016 deadline. **The Developer submitted tax credit applications for three rounds beginning with the June 2016 round and ending with the June 2017 round without success. The tax credit program remains highly competitive due to the large number of project submittals and the limited supply of affordable housing funding.**
- Acquire the Site from the RHA for a total purchase price of \$950,000. **The RHA continues to own the Site.**
- Own, manage and maintain the Project as specified in the Agreement and administer the affordability covenants for a minimum of 55 years. The Project creates 63 units restricted for households earning less than 60% of the San Bernardino County median income for 55 years and one unit for the on-site manager.

On November 13, 2017, the Beautification Commission recommended unanimously (5-0-1) that the Rialto Housing Authority Board approve the First Amendment.

#### **ANALYSIS/DISCUSSION:**

##### First Amendment to Agreement

In August 2017, the City contacted the Developer to propose a split of the Site to allow development of a parking lot to serve the Metrolink Station, preserving grant funding allocated to the City for the addition of parking spaces to serve daily commuters. The City evaluated several other sites, contacted various property owners to gauge sales interest, and determined that the site on Bonnie View offered the most immediate opportunity to produce the required parking within the grant timelines. Because the Site was under contract with the Developer, any change requires the Developer's consent.

The proposed reduction in land area available for a housing project results in fewer units (the "Revised Project"). The proposed parking lot parcel is 0.97 acres producing 100 spaces ("Parking

Lot”) and the Revised Project parcel is 1.59 acres (reducing the project scope from 65 units to 38 units). The Developer supports the split subject to certain conditions. The Developer initiated site plan modifications for the Revised Project for submittal to the Planning Division for consideration. The revised site plan is attached hereto as **Exhibit C**.

To authorize the revised project, the parties must amend the Agreement to allow the City to acquire a portion of the Site from the RHA and construct the parking lot. By letter dated September 12, 2017 the Developer proposed the following terms to release the RHA parcel to the City (**Exhibit D**):

1. The Developer agrees to subdivide the Site into two (2) separate parcels via a lot line adjustment as follows:
  - a. Parcel 1: The City will acquire Parcel 1 from the RHA for fair market value and develop the parcel into a parking lot for the Rialto Metrolink Station.
  - b. Parcel 2: The Developer will develop the Revised Project on Parcel 2. The Revised Project reduces the project scope from 65 units to 38 units.
2. The City will record the approved lot line adjustment as soon as possible. The City and the Developer will cooperate to finalize the lot line adjustment to accommodate the design of both sites.
3. The Developer will process all new entitlements required for the Revised Project.
4. The City will increase the Predevelopment Loan from \$250,000 to \$450,000 to reimburse the Developer for design and other soft costs incurred for the Revised Project. The predevelopment budget is attached hereto as **Exhibit E**.
5. The City will extend the Developer’s schedule of performance to allow application for an additional four (4) rounds of 9% tax credits beginning in March 2018 and ending in June 2019.

After the Developer obtains revised entitlements, the RHA and Developer must negotiate a Second Amendment to the Agreement modifying the Project scope and funding. By July 1, 2018, the First Amendment requires the Developer to obtain a revised Precise Plan of Design approval and execute the Second Amendment. The Executive Director may extend the deadline by a maximum of 180 days. The Agreement will terminate if the Developer fails to meet this deadline.

#### Amendment to Promissory Note

The existing promissory note with the Developer is for \$250,000, and the RHA has reimbursed the Developer for its pre-development costs. The Developer requested an additional \$200,000 maximum for pre-development costs to process the Revised Project. The amended promissory note increases the loan from \$250,000 to \$450,000.

#### Purchase and Sale Agreement for Parking Lot

The Successor Agency retained Aaron Gardner Appraisal to appraise the Parking Lot. The appraiser valued the parcel at \$350,000 (**Exhibit F**). Staff prepared a Purchase and Sale Agreement to convey the Parking Lot parcel from the RHA to the City for \$350,000.

On August 28, 2012, the City accepted Federal Transit Administration grant of \$3,345,600 administered by Omnitrans and on December 12, 2012, the City and San Bernardino Associated Governments (currently known as the San Bernardino County Transportation Authority -- "SBCTA") approved a Cooperative Agreement for \$2,300,000 of grant funding for the Metrolink Parking Lot Expansion Project - total funding of \$5,645,600. In 2016, the City completed the Phase 1 expansion costing \$2,190,549. The City proposes to utilize the fund balance of \$3,455,051 for the Phase 2 expansion for Parking Lot including the acquisition cost.

Release of Request for Bid for the Parking Lot Expansion Project

The Metrolink Parking Lot Expansion Project included the addition of 230 parking spaces in two phases. Earlier in 2017, the City completed Phase 1 by adding 122 parking spaces. The City intended to acquire parcels north of the Metrolink Station for Phase 2 but failed to acquire needed parcels. Consequently, the City considered splitting the Site for Phase 2. The Parking Lot is adjacent to the Metrolink Station and the proposed Rialto Station Double Track Platform.

A Release of Request for Bid Phase 2 construction to retain a contractor is required. The tentative schedule for the bid process is as follows:

RFB advertised: . . . . . January 4, 2018  
Deadline for receipt of bids: . . . . . January 25, 2018  
Contract award: . . . . . February 27, 2018

**ENVIRONMENTAL IMPACT:**

Housing Project

The City reviewed the proposed Project in accordance with the California Environmental Quality Act (CEQA), which a Mitigated Negative Declaration (Environmental Assessment No. 15-67) has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA). A noise study was prepared to ensure the quiet enjoyment of each unit adjacent to the railway. The City imposed a Condition of Approval requiring additional windows for light and ventilation for all units with a wall facing the rail in addition to an increased wall height of 8 feet along the rear property line. The City also imposed a Condition of Approval requiring disclosure of the adjacent adult oriented business in the lease agreements to ensure land use compatibility.

A revised project will require a review for compliance with CEQA. The Developer has not submitted revised site plan to the Planning Division.

Parking Lot Project

In accordance with the California Environmental Quality Act (CEQA), City Staff is preparing a Mitigated Negative Declaration and Notice of Determination for the Project.

The Federal Transit Agency will act as Lead Agency pursuant to the National Environmental Policy Act (NEPA). The Project will most likely qualify as a Categorical Exclusion under 23 CFR Part 771.117(d)(4).

**GENERAL PLAN CONSISTENCY:**

The housing project would assist the City of Rialto to meet its obligation to provide affordable housing pursuant to its Regional Housing Needs Allocation (RHNA) and further the Rialto General Plan (General Plan) Housing Element goals for the City, while promoting the production of safe, decent, and affordable housing for all within the community.

Approval of the parking project complies with the City of Rialto General Plan Goal and Policies:

**Goal 4-7: Achieve optimum use of regional rail transit.**

Policy 4-7.1: Support Metrolink regional rail services, and work with the Southern California Regional Rail Authority to expand services.

Policy 4-7.2: Achieve better integration of all transit and multimodal options at the Rialto Metrolink Station.

Policy 4-7.3: Promote activity centers and transit-oriented development projects around the Rialto Metrolink Station and Downtown.

**LEGAL REVIEW:**

The City Attorney reviewed and approved the staff report, the First Amendment, Amendment to the Promissory Note, and the Purchase and Sale Agreement.

**FINANCIAL IMPACT:**

Housing Project

The total RHA obligation to the Project is \$5,500,000 -- the RHA previously expended \$910,000 to acquire the Site and \$250,000 to reimburse the Developer for pre-development costs. The First Amendment increases the Developer's pre-development reimbursement entitlement by \$200,000 for a total obligation of \$450,000. Funds of \$200,000 are available in Account Number 303-500-1793-3001. The available balance for construction (subject to negotiation) is \$4,140,000 as indicated below:

**RHA Bond Funds Available for Housing Project**

|                                               |                     |
|-----------------------------------------------|---------------------|
| Total RHA Obligation                          | \$ 5,500,000        |
| Expended - Property Purchase                  | \$ (910,000)        |
| Expended - First Pre-Development Cost         | \$ (250,000)        |
| <u>Proposed - Second Pre-Development Cost</u> | <u>\$ (200,000)</u> |
| <b>Balance Available</b>                      | <b>\$ 4,140,000</b> |

Parking Lot Site Purchase

Funds of \$3,455,051 remain from the SBCTA/Omnitrans grants for Phase 2. The Site acquisition cost is \$350,000 with a maximum of \$9,000 for closing costs. Funds of \$359,000 from Account Number 223-500-4408-3001-170808 will pay for the acquisition and closing costs.

Parking Lot Construction

The table below shows project budget of \$3,455,051 for the Metrolink Parking Lot Expansion Project - Phase 2:

| Description                            | Account Number    | Budget                 |
|----------------------------------------|-------------------|------------------------|
| <b>SOURCES OF FUNDS</b>                |                   |                        |
| 30 SANBAG-PROP18-PTMISEA (LTF)         | 223-400-4408-7536 | \$ 1,861,890.00        |
| 55 US Dept Transit Authority/Omnitrans | 223-400-4408-7536 | \$ 1,593,161.00        |
| <b>TOTAL SOURCES OF FUNDS</b>          |                   | <b>\$ 3,455,051.00</b> |
| <b>USES OF FUNDS</b>                   |                   |                        |
| 01 Design                              | 223-500-4408-3001 | \$ 58,000.00           |
| 02 Environmental                       | 223-500-4408-3001 | \$ -                   |
| 03 Right of Way Acquisition            | 223-500-4408-3001 | \$ 1,515,000.00        |
| 04 Administration                      | 223-500-4408-3001 | \$ 42,051.00           |
| 05 Construction                        | 223-500-4408-3001 | \$ 1,626,600.00        |
| 13 Overhead Allocation                 | 223-500-4408-3001 | \$ 70,400.00           |
| 15 Construction Support                | 223-500-4408-3001 | \$ 50,000.00           |
| 16 Construction Management             | 223-500-4408-3001 | \$ 93,000.00           |
| <b>TOTAL USES OF FUNDS</b>             |                   | <b>\$ 3,455,051.00</b> |

The budget includes \$1,515,000 for acquisition costs for parcels north of the Metrolink Station. The actual cost to acquire the Parking Lot south of the Metrolink Station is \$359,000. The balance of \$1,156,000 may be available for construction contingency or other Metrolink Station improvement

projects.

**RECOMMENDATION:**

Staff recommends the Rialto Housing Authority Board approve the:

1. First Amendment (**Exhibit G**) to the Affordable Housing, Financing and Disposition and Development Agreement by and between the Rialto Housing Authority and the Rialto Metrolink South Housing Partners.
2. Amendment (**Exhibit H**) to Promissory Note increasing the loan amount from the Rialto Housing Authority to the Rialto Metrolink South Housing Partners from \$250,000 to \$450,000 for predevelopment cost reimbursement.

Staff recommends the City Council approve the:

3. Release of Request for Bid No. 18-052 (**Exhibit I**) for the Metrolink Parking Lot Expansion Project, City Project No. 170808.

Staff recommends the City Council and the Rialto Housing Authority Board approve the:

4. Purchase and Sale Agreement (**Exhibit J**) to convey 0.97 acres of Rialto Housing Authority property to the City of Rialto for the proposed Phase 2 Metrolink Parking Lot expansion for total cost of \$359,000.