



# City of Rialto

## Legislation Details (With Text)

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**File created:** 5/28/2019    **In control:** City Council  
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**Title:** Request City Council to Approve the First Amendment to the Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Sirwin Enterprises LLC. (ACTION)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Map, 2. Exhibit B - Site Plan, 3. Exhibit C - Sirwin Credit Agreement.pdf, 4. Exhibit D - First Amendment.pdf

Date	Ver.	Action By	Action	Result
7/23/2019	1	City Council		

For City Council Meeting [July 23, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Administrator

FROM: Robb Steel, Assistant CA/Development Services Director

Request City Council to Approve the First Amendment to the Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Sirwin Enterprises LLC.  
**(ACTION)**

### **BACKGROUND:**

On April 9, 2019, the City Council approved a Construction Fee Credit and Reimbursement Agreement ("Agreement") by and between the City of Rialto and Sirwin Enterprises LLC ("Developer") related to off-site improvements for a proposed retail center 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**).

The off-site improvements are as follows:

- (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.

The Project owes an estimated \$189,072 in Regional Traffic Development Impact Fees and \$32,680 in RSP Traffic Development Impact Fees. The estimated widening cost for the eligible Regional Traffic Fee improvements is \$403,861 and the traffic signal modification for the eligible RSP Traffic

Fee is \$31,500.

The Agreement provided the Developer a credit of \$189,072 in Regional Traffic Fee and \$31,500 in RSP Traffic Fee. The Agreement also reimburses the Developer \$214,789 for excess street widening costs from the Regional Traffic Fee ("Cost Reimbursement"). The Developer covers the traffic signal modification cost difference of \$1,180.

The Agreement is attached hereto as **Exhibit C**.

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>

#### ANALYSIS/DISCUSSION:

The Project requires the Developer to pay \$164,000 as fair share fees ("Fair Share Fee") to cover portions for future improvements at the Ayala Drive/Casmalia Street intersection and the Ayala Drive/210 Freeway ramps as required per PPD 2018-0041 Condition #109 and recommended by the Transportation Commission at its July 12, 2018 meeting.

The Developer requests that the City grant a credit for the Fair Share Fee, reducing the Cost Reimbursement by that amount and minimizing the Developer's up-front cash outlay requirements. Granting the credit reduces the Cost Reimbursement from the City by \$164,000 to \$50,789; however, the City will, pending Council approval, be required to transfer \$164,000 from the Regional Traffic Fee fund to the Fair Share Fee fund when funds become available. The calculations are:

	Fund #	
City Reimbursement - Paid by the City	Fund 250	\$ 214,789.19
Fair Share Fees - Paid by the Developer	Fund 301	\$ (164,000.00)
<b>UPDATED CITY REIMBURSEMENT - Paid by the City:</b>		<b>\$ 50,789.19</b>

The City's ultimate reimbursement obligations have not changed, except that the Regional Traffic Fee Account will now reimburse the Fair Share Fee Account for \$164,000 rather than reimburse the Developer. This will ensure that the Fair Share Fee Account is made whole, and the credit only serves as a cash flow tool to assist the Developer. The Developer is required to complete the off-site improvements to obtain a Certificate of Occupancy and the cost reimbursement.

The Fair Share Fee Account foregoes investment earnings it would have earned on the \$164,000 for the time between building permit issuance and the final reconciliation payment upon completion of the Project. Assuming a 9-month lag between permit and completion and a 3% interest rate, the Fair Share Fund will bear a \$3,700 opportunity cost.

### **ENVIRONMENTAL IMPACT:**

On November 28, 2018, the Planning Commission 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 First Amendment to 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 reviewed and approved the First Amendment to the Construction Fee Credit and Reimbursement Agreement, 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**

On April 9, 2019, the City Council approved 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 appropriate the estimated credit amounts of \$189,072.00 to Account 250-400-4312-3001. These transactions remain the same.

The proposed First Amendment grants the Developer a credit of \$164,000 against Fair Share Fees (Account No. 301-400-4312-3001) otherwise due. Upon project completion, the City will reimburse the Developer \$50,789.19 from Account No. 250-500-4312-3001 and reimburse the City (Account No. 301-500-4312-3001) the amount of \$164,000 from Regional Traffic Fees (Account No. 250-500-4312-3001).

#### **Licensing**

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

**RECOMMENDATION:**

Staff recommends that the City Council Approve the First Amendment to the Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Sirwin Enterprises (**Exhibit D**).