



City of Rialto

Legislation Details (With Text)

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Title: Request City Council to Accept the Public Improvements; Authorize the Public Works Director/City Engineer to File the Notice of Completion; and Authorize the City Manager to Reimburse MP Rialto, LLC, in the amount of \$699,685.58 in Accordance with the Construction Fee Credit and Reimbursement Agreement.
(ACTION)

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Attachments: 1. Attachment 1 - Council Item 03-14-2017 Tab 6.pdf, 2. Attachment 2 - Executed Consent to Assignment & Assumption of Const. Fee Credit & Reimbursement Agreement for Proficiency Renaissance LLC.pdf, 3. Attachment 3 - Council Report 02-27-2018 .pdf, 4. Attachment 4 - Soft Cost Calculation.pdf, 5. Attachment 5 - DIF calculation.pdf, 6. Attachment 6 - GASB34.pdf

Date	Ver.	Action By	Action	Result
5/12/2020	1	City Council		

For City Council Meeting [May 12, 2020]

TO: Honorable City Council

APPROVAL: Rod Foster, City Manager

FROM: Matt Schneider, Community Development Director

Request City Council to Accept the Public Improvements; Authorize the Public Works Director/City Engineer to File the Notice of Completion; and Authorize the City Manager to Reimburse MP Rialto, LLC, in the amount of \$699,685.58 in Accordance with the Construction Fee Credit and Reimbursement Agreement.

(ACTION)

BACKGROUND

In 2016, Proficiency Capital, LLC, ("Proficiency") submitted various planning and development applications (Amendment No. 5 to the Renaissance Specific Plan, PPD 2453, TPM 19754, and EAR 16-27) to the City for the proposed development of three (3) warehouses totaling 340,715 square feet on 18.20 acres of land on the southeast corner of Renaissance Parkway and Palmetto Avenue.

On January 25, 2017, the Development Review Committee (DRC) approved the Precise Plan of Design (PPD 2453) subject to certain Conditions of Approval including:

1. Widening and reconstructing the roadway along the project's frontages on the north and the south side of the centerline of Renaissance Parkway;
2. Constructing a raised center median along Renaissance Parkway; and

3. Installing an off-site sewer system along Renaissance Parkway from Alder Avenue westerly to the site.

Because there is no developable property on the north side of Renaissance Parkway, the Transportation Commission requested that the City and Proficiency develop a plan to construct the full width street improvements concurrent with the Project. Proficiency agreed to undertake this effort subject to a Construction Credit and Reimbursement Agreement per 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. However, the amount of the fee credit shall not exceed the amount of the development impact fee imposed for the same type of public facility as the one constructed by the Developer. 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.”

On March 14, 2017, the City Council adopted Resolution 7088 approving a Construction and Credit Agreement by and between the City of Rialto and Proficiency Capital, LLC, and adopted Budget Resolution 7089 amending the FY16/17 budget increasing expenditures for street improvements in the amount of \$1,071,846 and sewer improvement in the amount of \$269,682. The Council Report is included as **Attachment 1**.

In July 2017, a consent agreement executed between the City of Rialto and PROFICIENCY RENAISSANCE LLC, by which the Construction Fee Credit Reimbursement Agreement was assigned to MP Rialto, LLC, a Delaware limited liability company as a result of the project/property being sold to MP Rialto, LLC. A copy of such consent agreement is included as **Attachment 2**.

On February 27, 2018 the City Council adopted Resolution No. 7285 approving parcel map 19754 consolidating six (6) parcels of land into three parcels of land totaling 18.06 net acres of land at the southeast corner of Renaissance Parkway and Palmetto Avenue and an associated subdivision improvement agreement. The Council Report is included as **Attachment 3**.

The site location Maps before and after of the development is as shown below.

Southeast corner of Renaissance Parkway and Palmetto Avenue Before Construction



Southeast corner of Renaissance Parkway and Palmetto Avenue After Construction



ANALYSIS/DISCUSSION

On December 9, 2019, MP Rialto, LLC, (the "Developer"), submitted for a partial reimbursement, but the City required that the Developer submit the request to cover the full reimbursement.

MP Rialto, LLC, completed construction of the Public Improvements and submitted a claim for reimbursement in accordance with the Developer Construction Fee Credit and Reimbursement Agreement (DA)

Compliance conditions precedent to final credit or reimbursement:

Upon submittal of the final reimbursement request, staff completed a review of the construction costs, invoices, and other pertinent documents submitted by the Developer to confirm the final improvements costs and compliance conditions precedent to final credit or reimbursement as stipulated under Section 5.4 of the DA.

The improvements were constructed and completed by the Developer on August 23, 2019. The developer has met all the compliance conditions under 5.4 of the DA.

Final credit and reimbursement:

MP Rialto, LLC, submitted the final reimbursement request under the DA for all Public improvements as shown in **Table 1**. The total cost of the project is \$2,802,627.03, with hard costs at \$2,268,068.09 and soft cost at \$534,558.94.

Table 1: Total Project Cost (Public Improvements)

Improvement Scope	Construction Hard Cost	Construction Soft Cost	Total Project (Hard & Soft) Cost
Renaissance Parkway, south of centerline	\$ 694,904.26	\$ 163,781.36	\$ 858,685.62
Renaissance Parkway, north of centerline	\$ 694,904.26	\$ 163,781.36	\$ 858,685.62
Renaissance Parkway, Median Island	\$ 148,223.43	\$ 34,934.65	\$ 183,158.08
Subtotal Street Improvements	\$ 1,538,031.95	\$ 362,497.37	\$ 1,900,529.32
Sewer Line, along project frontage	\$ 357,717.71	\$ 84,310.17	\$ 442,027.88
Sewer Line, easterly extension to Alder	\$ 372,318.43	\$ 87,751.40	\$ 460,069.83
Subtotal Sewer Improvements	\$ 730,036.14	\$ 172,061.57	\$ 902,097.71
Total Project Cost	\$ 2,268,068.09	\$ 534,558.94	\$ 2,802,627.03

Developer Conditioned Costs:

The DA included certain costs that were considered as conditions for the developer to deliver or improve as part of development and were excluded as ineligible costs for the project.

1. Construction of asphalt replacement and parkway landscaping the Renaissance Parkway improvements south of centerline.
2. Construction of parkway landscaping the Renaissance Parkway improvements north of centerline.
3. Construction cost of median on Renaissance Parkway in excess of the DIF credit.
4. Construction of the Sewer main line on easterly extension to Alder Avenue.
5. According to the Section 5.3.3 of the DA, Soft Costs, "the total amount of the soft costs shall not exceed fifteen percent (15%) of the amount eligible for reimbursement," therefore, the soft cost incurred by the developer over the 15% threshold of the eligible costs are considered ineligible costs in the calculation of the reimbursement amount.

Table 2 below shows the final breakdown of the cost the developer is responsible for in the delivery of the project.

Table 2: Developer Costs

Improvement Scope	Total Project (Hard & Soft) Cost	Developer Soft Cost (over 15%)	Developer Conditioned Cost	Total Developer Costs
Renaissance Parkway, south of centerline	\$ 858,685.62	\$ 84,281.03	\$ 257,366.07	\$ 341,647.10
Renaissance Parkway, north of centerline	\$ 858,685.62	\$ 84,281.03	\$ 72,438.00	\$ 156,719.03
Renaissance Parkway, Median Island	\$ 183,158.08	\$ 34,071.91	\$ 142,471.86	\$ 176,543.77
Subtotal Street Improvements	\$ 1,900,529.32	\$ 202,633.97	\$ 472,275.93	\$ 674,909.90
Sewer Line, along project frontage	\$ 442,027.88	\$ 51,293.76	\$ 280,833.32	\$ 332,127.08
Sewer Line, easterly extension to Alder	\$ 460,069.83	\$ 53,387.38	\$ --	\$ 53,387.38
Subtotal Sewer Improvements	\$ 902,097.71	\$ 104,681.14	\$ 280,833.32	\$ 385,514.46
Total Project Cost	\$ 2,802,627.03	\$ 307,315.11	\$ 753,109.25	\$ 1,060,424.36

Items 1 through 5 discussed above as developer conditioned costs are calculated to be \$753,109.24. Although the developer incurred soft cost at \$534,558.94 as shown in **Table 1**, those costs are capped at 15% of eligible construction expenses which is calculated at \$227,243.83, therefore, the developer absorbed \$307,315.11 of the soft costs. The calculation of the 15% eligible soft costs for the project is included as **Attachment 4**.

City Costs:

1. Development Impact Fees for Transportation and Sewer:

To construct the development site improvements, the developer was conditioned to pay all necessary development fees, including fair share development impact fees (DIF) for various functions such as police, fire, facilities, storm drain, water, sewer, and transportation totaling \$2,093,893.48 as calculated in **Attachment 5**. Of the \$2,093,893.48 obligation, the developer paid \$1,051,376.38 of the fair share fees and withheld payment in the amount of \$1,042,517.10 of the fair share DIF for transportation and sewer to be credited against the DA calculation of the final reimbursement.

2. The City's total obligation for the construction of the city improvements under the terms of the DA is in the amount of \$1,742,202.67. Deducting the DIF Credit from the developer of \$1,042,517.10, the reimbursement amount owed to the developer is \$699,685.57. Reimbursement for construction of city street improvements on Renaissance Parkway and sewer main lines in connection with the development as shown in **Table 3** below is in the amount of \$699,685.57, which is total project cost less the developer cost less the DIF credit.

Table 3: Final Developer and City Costs

Improvement Scope	Total Project (Hard & Soft) Cost	Total Developer Costs	City DIF Credit	City Reimbursement	Total City Costs
Renaissance Parkway, south of centerline	\$ 858,685.62	\$ 341,647.10	\$ 517,038.53	\$ --	\$ 517,038.53
Renaissance Parkway, north of centerline	\$ 858,685.62	\$ 156,719.03	\$ 408,963.47	\$ 293,003.13	\$ 701,966.60
Renaissance Parkway, Median Island	\$ 183,158.08	\$ 176,543.77	\$ 6,614.30	\$ (0.00)	\$ 6,614.30
Subtotal Street Improvements	\$ 1,900,529.32	\$ 674,909.90	\$ 932,616.30	\$ 293,003.13	\$ 1,225,619.43
Sewer Line, along project frontage	\$ 442,027.88	\$ 332,127.08	\$ 109,900.80	\$ --	\$ 109,900.80
Sewer Line, easterly extension to Alder	\$ 460,069.83	\$ 53,387.38		\$ 406,682.45	\$ 406,682.45
Subtotal Sewer Improvements	\$ 902,097.71	\$ 385,514.46	\$ 109,900.80	\$ 406,682.45	\$ 516,583.25
Total Project Cost	\$ 2,802,627.03	\$ 1,060,424.36	\$ 1,042,517.10	\$ 699,685.58	\$ 1,742,202.68

To summarize the DA reimbursement final calculation:

- ✓ The developer delivered the improvements at \$2.8 Million which is \$1 Million less than the construction estimate of \$3.8 Million and reduced the city's cost of the improvements accordingly.
- ✓ The developer's contribution did not reduce proportionally based on the reduction on project costs, due to the increase in actual costs of the sewer main lines over projections, and the soft costs were considerably over the 15% threshold.

Improvement Scope	Total Developer Costs	Total City Costs	Total Project Cost
Renaissance Parkway, south of centerline	\$ 341,647.10	\$ 517,038.53	\$ 858,685.62
Renaissance Parkway, north of centerline	\$ 156,719.03	\$ 701,966.60	\$ 858,685.62
Renaissance Parkway, Median Island	\$ 176,543.77	\$ 6,614.30	\$ 183,158.08
Subtotal Street Improvements	\$674,909.90	\$ 1,225,619.43	\$ 1,900,529.32
Sewer Line, along project frontage	\$ 332,127.08	\$ 109,900.80	\$ 442,027.88
Sewer Line, easterly extension to Alder	\$ 53,387.38	\$ 406,682.45	\$ 460,069.83
Subtotal Sewer Improvements	\$ 385,514.46	\$ 516,583.25	\$ 902,097.71
Total Project Cost	\$ 1,060,424.36	\$ 1,742,202.68	\$ 2,802,627.03
Estimated Budget	\$ 1,027,495.80	\$ 2,799,830.70	\$ 3,827,326.50
Variance Actual Budget	\$ 32,928.56	\$ (1,057,628.03)	\$ (1,024,699.47)

ENVIRONMENTAL IMPACT

On January 10, 2017, the City Council adopted Mitigated Negative Declaration (EAR 16-27) 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.

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

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 has reviewed and supports this staff report.

FINANCIAL IMPACT

Operating Budget Impact

The improvement constructed under the development agreement will be accepted into the city's infrastructures. The maintenance and operations of the assets will be absorbed in and imbedded in the current operations budget of the respective streets and sewer activities.

Capital Improvement Budget Impact

There are sufficient funds available and budgeted in the Traffic Development Impact Fund Account No. 250-500-4312-3001 in the amount of \$293,003.12 (the applicable street costs), and in Wastewater Fund Account No. 660-500-7150-3001 in the amount of \$406,682.45 (the applicable sewer costs) for the final reimbursement in the total amount of \$699,685.57 payable to MP Rialto,

LLC for public improvements constructed under the Development Construction Fee Credit and Reimbursement Agreement.

The Finance Department will add new improvements to the City's fixed asset system in compliance with Governmental Accounting Standard Board (GASB) 34 Standards for Financial Reporting of Infrastructure Assets included as **Attachment 6**.

Licensing

No business license or applicable fees are required under this action.

RECOMMENDATION

Staff recommends that the City Council:

- Accept the public improvements constructed on behalf of the City of Rialto required by PPD 2453, and pursuant to the Construction and Credit Agreement by and between the City of Rialto and MP Rialto, LLC;
- Authorize the Public Works Director/City Engineer to File the Notice of Completion; and
- Authorize the City Manager to reimburse MP Rialto, LLC, in the amount of \$699,685.57 in accordance with the Construction Fee Credit and Reimbursement Agreement.