



# City of Rialto

## Legislation Details (With Text)

**File #:** 22-592      **Version:** 1      **Name:**  
**Type:** Resolution/Agreement      **Status:** Approved  
**File created:** 6/21/2022      **In control:** City Council  
**On agenda:** 8/9/2022      **Final action:** 8/9/2022  
**Title:** Request City Council to (1) Adopt Resolution No. 7957 Approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Rialto Apartments, LLC, a California Limited Liability Company; and (2) Adopt Budget Resolution No. 7858 Amending the Fiscal Year 2022/2023 Budget; and (3) Authorize the City Manager to Execute All Documents. (ACTION)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Location Map.pdf, 2. Fee Credit Agreement (Rialto Apartments)Final.pdf, 3. Disclosure Form.pdf, 4. Resolution Approving Agreement.pdf, 5. Budget Resolution.pdf

Date	Ver.	Action By	Action	Result
8/9/2022	1	City Council		

For City Council Meeting [August 9, 2022]

TO: Honorable Mayor and City Council

APPROVAL: Marcus Fuller, City Manager

FROM: Marcus Fuller, Acting City Engineer

Request City Council to (1) Adopt **Resolution No. 7957** Approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Rialto Apartments, LLC, a California Limited Liability Company; and (2) Adopt Budget **Resolution No. 7858** Amending the Fiscal Year 2022/2023 Budget; and (3) Authorize the City Manager to Execute All Documents.

**(ACTION)**

### **BACKGROUND:**

Frontier Enterprises, under its project specific business entity formed as Rialto Apartments, LLC, a California limited liability company, (hereinafter the "Developer"), submitted various planning and development applications to the City and proposes to construct a 204-unit apartment complex including a 3,210-square foot leasing office and clubhouse building, with a recreational pool and barbeque area for residential use on 8.02 acres of land (APNs: 0133-171-07, -08, -09, and -31) located at 534 E Foothill Boulevard, (the "Project") (see map included as **Attachment 1**).

On January 26, 2022, the Planning Commission approved Precise Plan of Design No. 2021-0045 (PPD 2021-0045), which established Conditions of Approval for the Project. The Conditions of Approval for the Project require the Developer to construct specified off-site improvements ("Off-Site Improvements") including but not limited to widening the Foothill Boulevard frontage ("Roadway Widening"), construction of a raised and landscaped median ("Median Work"), and installation of a traffic signal at the easterly driveway aligned with the existing entrance to the State Bros. Shopping

Center ("Traffic Signal Work").

The Roadway Widening and Median Work are both eligible for reimbursement through a Construction Fee Credit and Reimbursement Agreement pursuant to the provisions of Section 3.33.100 of the Rialto Municipal Code (Fee Credits), that states:

*...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:**

Section 3.33.110 of the Rialto Municipal Code (Construction and Credit Agreements) permits the City Manager to negotiate a Construction Fee Credit and Reimbursement 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 public facility submitted by the Developer.

#### *Regional Traffic Fee Credit*

The Regional Traffic Fee Program (Measure I) identifies the widening of Foothill Boulevard 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).

The Project owes \$499,392 in Regional Traffic Development Impact Fees at time of issuance of building permit. The estimated construction cost for the Roadway Widening, considered an eligible Regional Traffic Fee improvement, is \$1,100,341. In accordance with Section 3.33.110 of the Rialto Municipal Code, the Developer has requested a credit towards the Regional Traffic Fee for the cost to construct the Roadway Widening and has requested reimbursement of the cost exceeding the Regional Traffic Fee - with reimbursement estimated at \$600,949.

#### *Street Median Fee Credit*

The City's local Street Median Development Impact Fee (RMC 3.33.180) established a fee for construction of raised and landscaped medians along major arterials within the City pursuant to the City's Circulation Element of its General Plan. Foothill Boulevard is identified as a 6-lane divided Major Arterial with a raised and landscaped median.

The Project owes \$7,172.64 in Street Median Development Impact Fees at time of issuance of building permit. The estimated construction cost for the Median Work is \$214,572. In accordance with Section 3.33.110 of the Rialto Municipal Code, the Developer has requested a credit towards the Street Median Fee for the cost to construct the Median Work and has requested reimbursement of the cost exceeding the Street Median Fee - with reimbursement estimated at \$207,399.

#### *Traffic Signal Work*

As a condition of approval of the Project, Developer is required to install a new traffic signal at their main/easterly entrance aligned with an existing entrance to the State Bros. Shopping Center located on the south side of Foothill Boulevard. The Mitigated Negative Declaration adopted by the Planning Commission in approving the Project identified the Developer's fair share requirement for the Traffic Signal Work at 22.59% with the remainder balance of 77.41% the responsibility of other parties.

The Traffic Signal Work is estimated to cost \$533,025 with the Developer's share estimated at \$120,410.35 and the remainder share estimated at \$412,614.65.

As the traffic signal is located at a private commercial driveway and provides full access to the Project and to the existing State Bros. Shopping Center, the costs of the traffic signal is not eligible for a credit against other development impact fees and would otherwise require a reimbursement agreement between the properties benefitting from the traffic signal at the time of any entitlement on that property.

However, in this case as the City previously approved entitlements and permits for the Stater Bros. Shopping Center that was constructed approximately in 1992, and at that time the City did not required that developer to contribute to the cost of a future traffic signal at their easterly driveway, and there are no other parties with whom the City can currently obligate to reimburse the remainder fair share amount of 77.41% estimated at \$412,614.65.

As it is a benefit to the general public to provide for the orderly movement of traffic into and out of both the new apartment complex as well as the State Bros. Shopping Center, it is recommended that the City itself reimburse the Developer for the remainder share of the Traffic Signal Work.

The estimated cost of the Public Improvements and Net Reimbursement Due to Developer is summarized below:

	Impact Fee Assessed	Estimated Cost	Eligible for Reimbursement	Net Reimbursement Due to Developer
Road Widening Work- Foothill Boulevard	\$499,392.00	\$1,100,341.00	\$499,392.00	<b>600,949.00</b>
250 -Regional Traffic Fees				
Landscaped Median	\$ 7,172.64	\$ 214,572.00	\$ 7,172.64	<b>207,399.36</b>
255- Street Median Fee				
Traffic Signal***	\$ -	\$ 533,025.00	\$ 412,614.65	<b>412,614.65</b>
*** Not Eligible for Regional Traffic Fee or Street Median Fee Obligation ***				
<b>Totals</b>	<b>\$506,564.64</b>	<b>\$1,847,938.00</b>	<b>\$ 919,179.29</b>	<b>1,220,963.00</b>

The City will credit the Developer with the full amount of the Regional Traffic Fee and Street Median Fee due and will owe a reimbursement of \$600,949 for the Roadway Widening and \$207,399 for the Median Work to the Developer. Additionally, the City will reimburse the Developer \$412,615 for the Traffic Signal Work.

## Conclusion

The City will base the final credit amounts upon the actual costs of constructing the eligible improvements. The Developer must provide invoices and evidence of payments to construct these improvements. Developer must also comply with the City's competitive bidding and contracting procedures as well as pay prevailing wages for these publicly financed improvements.

A copy of the proposed Construction Fee Credit and Reimbursement Agreement is included as **Attachment 2**, and the conflict disclosure statement with Rialto Apartments, LLC, is included as **Attachment 3**. Staff recommends the City Council adopt the Resolution (**Attachment 4**) to approve the Construction Fee Credit and Reimbursement Agreement.

#### **ENVIRONMENTAL IMPACT:**

On January 26, 2022, the Planning Commission adopted Mitigated Negative Declaration for the Project pursuant to the provisions of the California Environmental Quality Act, Public Resources Code Sections 21000 et. seq. (" CEQA"), the State's CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 et. seq., and Government Code Section 65962.5(f) (Hazardous Waste and Substances Statement), the City approved an Initial Study (Environmental Assessment Review No. 2021-0045) prepared by Rincon Consultants, Inc. and determined that there is no substantial evidence that the approval of the Project would result in a significant adverse effect on the environment, provided appropriate mitigation measures are imposed on the Project; thus, a Mitigated Negative Declaration was prepared and notice thereof was given in the manner required by law.

Approval of the Construction 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 adopted General Plan through which the City looks to improve the community. The proposed action to enter into a Construction and Credit Agreement 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 recommended approval of the staff report, the Agreement, and Resolutions.

#### **FINANCIAL IMPACT:**

##### Operating Budget Impact

No impact.

### Capital Budget Impact

The City normally receives Development Impact Fees at issuance of building permits. In this case, Developer will receive a full credit of the Regional Traffic Fee and Street Median Fee that would otherwise be due and payable upon issuance of a building permit. As the costs for the eligible fee credit work exceed the amount of the fee credit otherwise due, the City will reimburse the Developer the excess amount subject to the provisions of the Construction Fee Credit and Reimbursement Agreement. Upon completion of the public improvements, Staff will verify the final costs and the City and Developer will make reconciliation payments as appropriate in accordance with the terms of the Construction Fee Credit and Reimbursement Agreement.

The proposed Construction Fee Credit and Reimbursement Agreement will grant the Developer a credit of \$499,392 against Regional Traffic Fee Fund, Account No. 250-400-4312-7679 and \$7,172.64 against Street Median Fee Fund, Account 255-400-4314-7679 otherwise due. Upon project completion, the City will reimburse the Developer \$600,949 from the Regional Traffic Fee Fund, Account No. 250-500-4312-3001 (subject to the availability of funds at the time of reimbursement) and \$207,399 from the Street Median Fee Fund, Account No. 255-500-4314-3001 (subject to the availability of funds at the time of reimbursement).

Additionally, reimbursement for Traffic Signal Work in the amount of \$412,615 requires appropriation of budget for the reimbursement. Staff recommends the City Council adopt the Resolution (**Attachment 5**) amending the Fiscal Year 2022/2023 Budget to transfer \$425,000 from Unrestricted General Funds to the Capital Fund (Fund 300) and appropriate this amount for an expenditure for this traffic signal reimbursement. This action will reduce the adopted General Fund surplus of \$4,148,386 to \$3,723,386 leaving a balance of \$8,160,512 in the Unrestricted General Fund.

### Licensing

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

### **RECOMMENDATION:**

Staff recommends that the City Council:

- (1) Adopt the Resolution approving a Construction Fee Credit and Reimbursement Agreement by and between the City of Rialto and Rialto Apartments, LLC, a California Limited Liability Company;
- (2) Adopt the Budget Resolution amending the Fiscal Year 2022/2023 Budget; and
- (3) Authorize the City Manager to Execute All Documents.