



City of Rialto

Legislation Text

File #: CC-18-1126, **Version:** 1

For City Council Meeting [November 27, 2018]

TO: Honorable Mayor and Members of the City Council

APPROVAL: Ahmad R. Ansari, Interim City Administrator

FROM: Robb R. Steel, Assistant CA/Development Services Director

Request City Council to Approve (1) a Grant of Easement and Agreement between the City of Rialto and DBA III, LLC, and (2) a Grant of Easement and Agreement by and between DBA III LLC and the City of Rialto, and (3) a Contingent Purchase Agreement between the City of Rialto and Lewis Hillwood Rialto, all related to the Ayres Hotel development located at the southwest corner of Linden Avenue and Renaissance Parkway.

BACKGROUND:

On September 25, 2018, the City Council approved land use entitlements for development of a 135 room Ayres Hotel at the southwest corner of Linden Avenue and Renaissance Parkway within the Renaissance Specific Plan. The land use entitlements included approval of an Addendum to the previously adopted and Certified Environmental Impact Report for the Amended Renaissance Specific Plan and Conditional Development Permits for the hotel use and the ABC License. LHR will acquire the site from the City and Ayres will acquire the site from LHR via a direct conveyance from the City to Ayres.

On September 25, 2018, the City Council approved land use entitlements for the creation of 3 new parcels and the development of 3 industrial buildings totaling 540,000 square feet on the adjacent 28.4 acre site. LHR also intends to acquire this Site from the City, for conveyance to a third party industrial developer.

Tentative Parcel Map No. 19943 showing the Ayres property and the Building 7/8/9 property along with the general location of the access easements is attached hereto as **Attachment A**.

ANALYSIS/DISCUSSION

Grant of Easement from City of Rialto to DBA III ("DBA Easement Agreement")

The Conditions of Approval for both the Ayres Hotel Project and the Building 8/9 Project require shared access connections from Renaissance Parkway and Linden Avenue to the separate parcels. The City and LHR expect that Ayres will acquire its parcel first, and that will require access privileges across the Building 8 parcel immediately to the west. The access consists of a shared access from Renaissance Parkway (identified as Parcel B on Exhibit E to the DBA Easement Agreement) and an exclusive access from that shared access to the westerly entrance to the hotel property (identified as Parcel A on Exhibit E to the DBA Easement Agreement). The City will also grant an exclusive landscape easement (identified in Exhibit F to the DBA Easement Agreement) allowing Ayres to maintain landscaping on the westerly and southerly perimeter of its property.

Ayres is not obligated to purchase the underlying fee for the access easement and the landscape easement, and that will

burden the remainder City property until LHR purchases it for development purposes. The 7/8/9 property is currently under contract, and expected to close by January 2019. The City will carry the burden at no cost to the parties, during which time LHR shall indemnify the City and assume all of City's obligations under the two Easement Agreements pursuant to the proposed Contingent Purchase Agreement, until LHR subsequently purchases the fee interest in accordance with the Schedule of Performance for the Area A Contract of Sale. The Contingent Purchase Agreement is attached hereto as **Attachment B**.

The DBA Easement Agreement is attached hereto as **Attachment C**.

Grant of Easement from DBA III to City of Rialto ("City Easement Agreement")

The Ayres Hotel will share a driveway access from Linden Avenue with the Building 9 property. The shared driveway access is located on the Ayres property, but is necessary to serve the Building 9 property (still owned by the City). Consequently, Ayres will grant an easement to the City of Rialto at closing of escrow to preserve that access entitlement for the future purchase of the Building 9 property. Ayres will grant the 2,082 square foot easement at no cost to the City (identified as Exhibit C to the City Easement Agreement). The City Easement Agreement is attached hereto as **Attachment D**.

In accordance with Section 2.14(e) of the Area A Contract of Sale, the City agreed not to voluntarily encumber the Property without the consent of LHR. In this case, LHR requests the encumbrance of the Property to facilitate the closing on the Ayres property.

ENVIRONMENTAL IMPACT:

On December 13, 2016, the City Council, acting on behalf of the City as the Lead Agency as set forth in California Environmental Quality Act (CEQA) Section 21067, certified a Subsequent Environmental Impact Report (Environmental Assessment Review No. 16-55) for the Renaissance Specific Plan (SEIR).

On September 25, 2018, the City Council adopted Resolution No. 7401, approving the Addendum to the SEIR for the Ayres Hotel Project. On September 25, 2018, the City Council also approved Resolution No. 7400 approving the Addendum to the SEIR for the Building 7/8/9 Project. The Addendums considered the proposed access authorized by the easements. The granting of the easement requires no further environmental review.

GENERAL PLAN CONSISTENCY:

The goals within the land use element of general plan that directly relate to the Project are:

Goal 2-9: Protect residential, schools, parks, and other sensitive land uses from the impacts associated with industrial and trucking-related land uses, as well as commercial and retail areas.

Goal 2-12: Design new streets to be pedestrian friendly.

Goal 2-17: Provide high quality and environmentally sustainable landscaping.

Goal 2-21: Ensure high-quality planned developments in Rialto.

Goal 2-22: Promote commercial and/or industrial development that is well designed, people-oriented, environmentally sustainable, sensitive to the needs of the visitor or resident, and functionally efficient for its purpose.

LEGAL REVIEW:

The City Attorney reviewed and approved this Staff Report, the DBA Easement Agreement, the City Easement Agreement, and the Contingent Purchase Agreement.

FINANCIAL IMPACT:

Operating Budget Impact

The City does not incur any operating costs associated with these easements. LHR shall bear any maintenance costs associated with these easements during the City's holding period.

Capital Budget Impact

The Developer(s) will pay for the construction of the access easement and the installation of landscaping. The City will not contribute toward the cost. The City will grant the easement at no immediate cost to the Developer(s). The City will

receive compensation under the Area A Contract of Sale for the underlying easement area when LHR acquires the Building 8 property. If LHR does not acquire the Building 8 property in accordance with the Schedule of Performance in the Area A Contract of Sale, then it will compensate the City for the underlying fee interest for the established price of \$8.50 per square foot. The value is \$124,100.

RECOMMENDATION:

Staff Requests City Council to Approve (1) a Grant of Easement and Agreement between the City of Rialto and DBA III, LLC, (2) a Grant of Easement and Agreement by and between DBA III LLC and the City of Rialto, and (3) a Contingent Purchase Agreement between the City of Rialto and Lewis Hillwood Rialto, all related to the Ayres Hotel development located at the southwest corner of Linden Avenue and Renaissance Parkway.