



City of Rialto

Legislation Text

File #: CC-19-429, Version: 1

For City Council Meeting [April 23, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Sean Grayson, Interim City Administrator

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

Request City Council to Conduct Public Hearing and Adopt **Resolution No. 7500** Approving a Property Lease by and between the City of Rialto and Lamar Central Outdoor for a City Owned Property on the north side of the 210 Freeway, westerly of Alder Avenue.

(ACTION)

BACKGROUND:

The City owns a 13-acre parcel at the southwest corner of Casmalia Street and Alder Avenue (see **Exhibit A**). The property has extraordinary visibility along the 210 Freeway. On July 24, 2018, the City entered into an Exclusive Negotiation Agreement with RV Spa for the 6-acre Site shown as Parcel A.

The City is exploring options for the remaining 7.2-acre Parcel B site. The parcel is very long and linear along Casmalia Street, with limited depth creating constraints for development. One potential use is for advertising purposes. The City and Lamar Outdoor Advertising initiated discussions regarding the placement of a billboard at the westernmost portion of Parcel B.

On February 12, 2019, the City Council approved a Billboard Removal and Relocation Agreement by and among the City of Rialto, San Bernardino County Transportation Authority, and Lamar Central Outdoor. On March 12, 2019, the City Council authorized the Mayor to execute and transmit a letter requesting that Caltrans declassify a portion of the 210 Freeway as a landscaped freeway to facilitate the placement of a digital display at this location.

ANALYSIS/DISCUSSION:

Proposed Lease

The proposed Property Lease by and between the City of Rialto and Lamar Central Outdoor LLC is attached hereto as **Exhibit B**. The key terms include:

- 1. Leased Premises.** The Leased Premises consist of a 2,500 square foot pad at the westernmost edge of the City Property. Lamar has exclusive use of this property to construct, maintain and operate a V shaped double digital display visible to east and west bound traffic on the 210 Freeway. Lamar has a non-exclusive license to access the Leased Premises across the Site in a manner that minimizes the impact to the use and enjoyment of the Site by other users.

2. **Term.** The City grants a Lease term of 20 years, with option by Lamar to extend for an additional 10 years - all commencing on the Commencement Date that is the first day of the first calendar month upon completion of the Display.
3. **Entitlements and Permits.** The City conditions the Lease upon and subject to Lamar's ability to obtain at Lamar's sole cost (i) any and all required entitlements and approvals from the City or other applicable governmental agencies, including those required under California Environmental Quality Act (Public Resources Code Sections 2100 *et seq.*) ("CEQA"), for Lamar's construction, use, and operation of the Sign and its Appurtenant Rights (as defined below); and (ii) any and all required approvals from the California Department of Transportation (including the California Department of Transportation Outdoor Advertising Division ("Caltrans") that may be necessary in order to allow for the construction and installation of the Sign on the Leased Premises, including, without limitation, the relocation of one of Lamar's existing outdoor advertising billboard display to the Leased Premises pursuant to the California Outdoor Advertising Act ("COAA"). Lamar shall have 12 months after the Effective Date of the Lease to obtain all required entitlements and permits, with the City Administrator authorized to grant one four-month extension. Either party may terminate the Lease if the entitlements and permits cannot be secured within the allowable periods.
4. **Rent.** Lamar shall lease the Site from the City for the greater of (1) a base rental of \$40,000 per year or (b) 25% of the gross advertising revenue. The base rental shall adjust every 5 years in accordance with the CPI, but in any event not to exceed 20% of the gross advertising revenue in the immediately preceding year.
5. **Fees.** Lamar shall pay all customary planning, permit and processing fees, development impact fees imposed by the City or other regulatory agencies, all Fair Share Fees imposed by the City or other regulatory agencies, the Renaissance Specific Plan/EIR fee and Renaissance Specific Plan Traffic Mitigation Fair Share Fee.
6. **Due Diligence Investigations.** Lamar shall complete normal and customary due diligence investigations including title reviews, environmental site assessments, soil testing and development feasibility.
7. **Insurances.** Lamar shall pay for any leasehold title insurance and other costs related to the Lease transaction, and provide liability insurance and indemnities as required by the Lease.
8. **Operating Costs.** Lamar shall solely pay all operating costs associated with the operation of the display, including all utilities and personal property or possessory interest taxes.
9. **Public Display.** Lamar shall allow the City/Lessor to use the display to advertise City events or public service announcements at no charge not less than 3 times each year. Lamar may provide alternative displays in close proximity to the City subject to City approval.
10. **Prohibited Displays.** Section 5.2 of the Lease prohibits certain forms of advertisement, including but not limited to adult entertainment, drug paraphernalia, or obscene messaging.

11. Records. Lamar shall prepare and maintain proper records subject to audit by the City.

City Codes

Section 18.102.60 (J) of the Rialto Municipal Code establishes the following requirements for billboards: Permitted Signs -- Off-Site Advertising Structures (Billboards). The City permits off-site advertising structures only within the C-3 and C-M commercial zones and the M-1 and M-2 manufacturing zones subject to the following provisions:

1. Maximum sign area shall not exceed three hundred square feet per display face, with a maximum of two display faces parallel to one another allowed per sign structure.
2. Maximum overall height of the sign structure shall not exceed twenty-five feet above grade.
3. Sign structures shall be set back a minimum of five feet from the public right-of-way.
4. No sign structure shall be placed less than one thousand feet from another existing off-site advertising (billboard) sign structure, measured in a straight-line distance.
5. No sign structure shall be located so that its side edge is less than one hundred feet or its front face or back face is less than five hundred feet from any residential zoning district.
6. No sign structure shall be placed within five hundred feet from any property used as a public park, school, cemetery or church, regardless of the zoning district.
7. No sign structure shall be located within five hundred feet from the centerline of any freeway or parkway, as defined in the Streets and Highways Code of the state of California.
8. All signs shall be built on steel beams with a maximum of two beams permitted for ground support per sign structure.

While the RMC appears to prohibit a freeway oriented advertising structure, the City has in the past granted exceptions where older billboards (often in greater number) were removed and replaced with newer billboards. The City would need to find that the removal of two billboards in the region, and the replacement with one new billboard provides a compelling benefit warranting relief from these requirements. The Resolution approving the Property Lease and entitlements provides such findings.

Public Hearing

The property is owned by the City and therefore the provisions of Section 52201 of the Government Code do not apply (Section 52201 pertains to former RDA properties retained by the City for development purposes). Nevertheless, in the interest of transparency the City followed most of the Section 52201 procedures and prepared a summary report (**Exhibit C**) explaining the transaction and scheduled a public hearing after notice in accordance with Government Code Section 6066 (publication of notice pursuant to this section shall be once a week for two successive weeks). The proof of publication is attached hereto (**Exhibit D**)

GENERAL PLAN CONSISTENCY:

The project is consistent with the following goals and policies of the Economic Development Element of the Rialto General Plan:

Goal 3-1: Strengthen and diversify the economic base and employment opportunities, and maintain a positive business climate.

Policy 3-1.3 Support established businesses in the City, and work to retain the small, independent businesses while accommodating national/regional chain stores.

ENVIRONMENTAL IMPACT:

On December 12, 2016, the City Council certified a Subsequent Environmental Impact Report (SEIR) (Environmental

Assessment Review No. 16-55) for the Renaissance Specific Plan in accordance with the California Environmental Quality Act (CEQA).

Lamar must secure all land use entitlements to construct the display prior to the construction of the display. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, New Construction or Conversion of Small Structures. Class 3 exempts a project consisting of the construction and location of limited numbers of new, small facilities or structures. The project involves the installation of one non-habitable sign structure, thereby qualifying the project for a Class 3 exemption. Planning Division staff prepared the attached Notice of Exemption for the project (**Exhibit E**).

LEGAL REVIEW:

The City Attorney reviewed and approved this staff report and resolution, and assisted in the negotiation of the Property Lease.

FINANCIAL IMPACT:

Operating Budget Impact

The City derives lease revenue from a public parcel, estimated at upwards of \$100,000 per year. All capital costs of construction shall be borne by Lamar. The City will locate the billboard on a portion of the Site that minimizes the impact to the value of the larger parcel. The City will record revenue in Account No. 010-400-4255-7402.

Capital Improvement Budget Impact

This action will not affect the City's capital improvement budget. The City previously acquired the property subject to the Lease Agreement.

Licensing

Lamar currently has a business license with the City to operate public advertising structures and the additional income may increase its obligation for business license taxes.

RECOMMENDATION:

Staff recommends Conduct Public Hearing and Adopt a Resolution (**Exhibit F**) Approving a Property Lease by and between the City of Rialto and Lamar Central Outdoor for a City Owned Property on the north side of the 210 Freeway, westerly of Alder Avenue.