



City of Rialto

Legislation Text

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For City Council Meeting and Rialto Housing Authority [June 11, 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 and RHA to Conduct Public Hearing and City Council Adopt **Resolution No. 7526** Approving (1) a Billboard Relocation Agreement and (2) Property Leases by and between the City of Rialto and Lamar Central Outdoor LLC for Two City Owned Properties including the lot immediately north of the Rialto Senior Center and the Southwest Corner of Alder Avenue and Casmalia Street and Rialto Housing Authority Adopt **RHA Resolution No. 003-19** Approving a Property Lease by and between the Rialto Housing Authority and Lamar Central Outdoor LLC for an RHA Owned Property located at the Southwest Corner of Foothill Boulevard and Cactus Avenue.

POWERPOINT (ACTION)

BACKGROUND:

On April 25, 2006, the Planning Commission approved Conditional Development Permit No. 538, a request by Lamar Advertising to remove an existing wooden billboard and replace it with a 45-foot digital billboard along the I-10 Freeway, just westerly of Riverside Avenue. Lamar also agreed to remove seven other antiquated billboards on City arterials, and that commitment provided the impetus to allow the upgrade to the existing freeway billboard. Lamar completed removal of seven billboards throughout the City as part of that action.

On August 29, 2018, the Economic Development Committee considered a proposal from Lamar Central Outdoor to install digital displays on City or RHA owned sites, as consideration for the prior removal of seven billboards throughout the City and one additional billboard acquired by Lamar from General Outdoor. Lamar requested that the City enter into a Billboard Relocation Agreement and property leases for the various sites. The Economic Development Committee commented on the proposed locations, the aesthetic features, but otherwise recommended that the proposal move forward to the City Council.

ANALYSIS/DISCUSSION:

Billboard Relocation Agreement

Lamar proposes to enter into a Billboard Relocation Agreement (**Exhibit A**) with the City that would allow installation of three new digital display boards on City/RHA owned sites in exchange for the prior removal of seven billboards throughout the City and one existing billboard on Foothill Boulevard that Lamar subsequently acquired from Empire Outdoor Media (which purchased the General Outdoor Advertising portfolio). The potential sites for the relocated billboards are:

1. The City owned property immediately north of the Rialto Senior Center (zoned for Regional Commercial in Gateway Specific Plan) (APN # 0132-102-13).
2. The Rialto Housing Authority owned property immediately to the east of the Telacu Senior Citizen Housing Project on Foothill Boulevard (zoned residential in the Foothill Boulevard Specific Plan) (APN # 0128-081-47).
3. The 7.2 acre City owned property along the 210 Freeway that was the subject of the Property Lease approved by the City Council on April 23, 2019 - this would add a second display on that Freeway Incubator zoned site (APN # 1119-241-02).

Conceptual illustrations of the digital displays proposed for these Sites are attached hereto as **Exhibit B**.

Proposed Lease

The proposed Property Leases by and between the City of Rialto, the Rialto Housing Authority, and Lamar Central Outdoor LLC are attached hereto as **Exhibit C (C-1, C-2, and C-3)**. The key terms under each lease include:

- 1. Leased Premises.** The Leased Premises consist of an approximately 625 square foot pad on each of the arterial sites (#1 and #2 above) and 2,500 square feet for the 210 Freeway Site (#3 above). Lamar has exclusive use of these pads to construct, maintain and operate a V shaped double digital display. Lamar will have a non-exclusive license to access the Leased Premises across the Sites in a manner that minimizes the impact to the use and enjoyment of the Sites 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 each 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 Signs; 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 Signs on the Leased Premises. 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 each Lease if Lamar cannot secure the entitlements and permits within the allowable periods. The City reserves all discretion to approve, deny, or conditionally approve the entitlements after conducting all required public hearings in accordance with the Rialto Municipal Code and the CEQA.
- 4. Rent.** Lamar shall lease Sites #1 and #2 from the City for the greater of (1) a base rental of \$25,000 per year per sign or (b) 25% of the gross advertising revenue for each sign. 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.

Lamar shall lease Site #3 from the City for the greater of (1) a base rental of \$40,000 per year per sign or (b) 25% of the gross advertising revenue for each sign. 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 as applicable to the specific site(s).
- 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. Lamar is solely responsible for satisfying all conditions necessary to legally site a billboard on the subject sites.

Public Hearing

The Sites are owned by the City and the Rialto Housing Authority 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/RHA followed most of the Section 52201 procedures and prepared a summary report (**Exhibit D**) explaining the transaction and scheduled a public hearing after notice in accordance with Government Code Section 6066 (once a week for two successive weeks).

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:

Lamar must secure all land use entitlements to construct the displays prior to the construction of the display, which may include supplemental environmental review. The Leases are 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 Leases (**Exhibit E**).

LEGAL REVIEW:

The City Attorney reviewed and approved this staff report and assisted in the negotiation of the Property Lease. The Public Hearing Notice is attached hereto as **Exhibit F**.

FINANCIAL IMPACT:

Operating Budget Impact

The City and RHA derive lease revenue from public parcels, estimated at upwards of \$25,000 per year per display for Site #1 and Site #2, and \$40,000 per year for Site #3. All operating and capital costs shall be borne by Lamar. The City will locate the billboard on a portion of the Site(s) that minimizes the impact to the value of the larger parcel. The City will record revenue in Account No. 010-400-4255-7402.

The entitlement process is uncertain, and could take considerable time to procure all required approvals from governmental agencies. Some or all of the Signs may not receive entitlements and the leases may terminate in accordance with the terms of the Leases.

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 Agreements.

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:

Request City Council and RHA to Conduct Public Hearing and:

- A. City Council Adopt **Resolution No. ____ (Exhibit G)** Approving (1) a Billboard Relocation Agreement and (2) Property Leases by and between the City of Rialto and Lamar Central Outdoor LLC for Two City Owned Properties including the lot immediately north of the Rialto Senior Center and the Southwest Corner of Alder Avenue and Casmalia Street, and
- B. Rialto Housing Authority Adopt **RHA Resolution No. ____ (Exhibit H)** Approving a Property Lease by and between the Rialto Housing Authority and Lamar Central Outdoor LLC for an RHA Owned Property located at the Southwest Corner of Foothill Boulevard and Cactus Avenue.