



City of Rialto

Legislation Text

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For City Council Meeting [October 22, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Rod Foster, City Administrator

FROM: Sean Grayson, Acting Public Works Director

Request City Council to Accept Public Improvements, Approve GASB 34 Report for the Project, Authorize Release of Final Payment of \$137,864.63 all related to the Renaissance Parkway East Improvement Project, and Certify Final Project Costs of \$3,354,399.80.

(ACTION)

BACKGROUND:

On March 28, 2017, the City approved a Construction Reimbursement Agreement by and between the City of Rialto and Ayala and 210 Partners ("Developer"). On January 23, 2018, the City Council approved Amendment #1 to the Construction Reimbursement Agreement (collectively, the Construction Reimbursement Agreement and the Amendment #1 are the "Agreement"). The Agreement authorized the Developer to bid, award contract(s), manage and construct the Renaissance Parkway improvements situated east of Ayala Drive along the frontage of the Renaissance Plaza development in accordance with procedures established in the Agreement ("Project"). The Project included sewer, water, storm drain, roadway and dry utility improvements. The City monitored the bidding process to ensure competitive bidding and fair pricing. The Developer reviewed, approved, and submitted all payment requests and invoices to the City for payment processing. The original Agreement and Amendment #1 are attached hereto as **Exhibit A** and **Exhibit B, respectively**.

On February 20, 2018, the City deposited \$3,806,718 in a third-party escrow account administered by First American Trust ("FSB"). The deposit represented contributions from the Drainage Development Impact Fee (\$200,915), Regional Traffic Development Impact Fee (\$1,958,795), RSA Bond Funds (\$1,234,282), Water Development Impact Fee (\$202,625), and the Wastewater Collection Development Impact Fee (\$210,101).

ANALYSIS/DISCUSSION:

The Developer first bid and then awarded the various construction contracts in accordance with Section 3.0 of the Agreement. The Developer submitted copies of all bids and contracts to the City Public Works Director. The Developer required all contractors and sub-contractors to pay prevailing wages in accordance with the Labor Code. The City inspected and approved all work during construction and approved the final inspection.

The Developer completed construction of the Project and requested final reimbursement. In accordance with Section 5.3.2 of the Agreement, the Developer must satisfy the following conditions

prior to release of the final payment of \$137,864.63:

5.3.2(a) No Default. The Developer shall not be in Default in any of its obligations under the terms of this Agreement and all representations and warranties of the Developer contained herein shall be true and correct in all material respects.

The Developer is not in default of any of its obligations.

5.3.2(b) Completion of Construction. Developer shall have completed the construction of the Renaissance/Ayala Improvements, notices of completion shall have been recorded in relation to the Renaissance/Ayala Improvements in accordance with California Civil Code Sections 3093 and/or 8182 (as applicable), and 35 days shall have elapsed since the recordation of such notices of completion. The purposes of this provision are to ensure that the Renaissance/Ayala Improvements will be independently functional and to maintain consistency with vesting rights, and nothing herein shall be deemed to make any part of the Project other than the Renaissance/Ayala Improvements a public work.

The Developer recorded a Notice of Completion and the Developer received no claims.

5.3.2(b) Submission of Bills/Invoices. Developer shall have made full and complete payment of all undisputed claims for work performed on the Renaissance/Ayala Improvements, or in the event of a dispute between Developer and the general contractor or a subcontractor, Developer shall have obtained a commercially reasonable bond reasonably satisfactory to City to release any applicable mechanics' lien or stop notice and Developer shall have submitted and City shall have approved the final RA Funding Request, including copies of all bills and/or invoices evidencing the Hard Costs and Soft Costs of constructing the Renaissance/Ayala Improvements actually incurred by Developer.

The Developer submitted eighteen (18) Requests for Reimbursement with all invoices. There are no known disputes regarding payment.

5.3.2(d) As-Built Drawings. The Developer shall have submitted two (2) sets of final as-built drawings for the Project to the City Public Works Director.

The Public Works Department received as-built drawings.

5.3.2(e) Acceptance of Renaissance/Ayala Improvements by City. City, through the City Council, shall have accepted title to the Renaissance/Ayala Improvements and Developer shall have provided the maintenance guarantees and landscaping requirements reasonably required by City. The City agrees it will not unreasonably withhold or condition its acceptance of title to the Renaissance/Ayala Improvements. City will accept the Renaissance/Ayala Improvements in phases and release the final reimbursement based on the phase that has been accepted by the City. Phasing of the Renaissance/Ayala Improvements shall be determined in the reasonable discretion of the City.

The Developer requests that the City accept all off-site public improvements as complete.

Scope of Work

The Scope of Work for the Project consisted of widening Renaissance Parkway from Ayala Drive easterly a distance of approximately 1,500 lineal feet. The scope of work included curbs, gutters, sidewalks, parkway landscaping, and roadway improvements. The improvements also included traffic signal improvements at Renaissance Parkway and Ayala Drive and a new traffic signal at Renaissance Parkway and the driveway entrance to the retail center. All American Asphalt performed the street improvement and dry utility work for a total cost of \$2,434,941.27 and Aramexx performed the landscaping work for a total cost of \$322,351.34.

An illustration showing the scope of improvements is attached hereto as **Exhibit C**.

Final Costs and Reimbursement Request #18

Staff reviewed the construction costs and invoices submitted by the Developer for reimbursement. Table 1 summarizes the allocation of construction costs by fund source for the various public improvements. The detailed costs are attached as **Exhibit D**. The Public Works Department reviewed the construction costs for the improvements and determined them to be fair and reasonable. The total project costs equaled \$3,354,399.95 -- \$452,318.05 under budget.

Table 2 summarizes the payments for all vendors paid by the Developer for the Miro Way Improvement Project.

ENVIRONMENTAL IMPACT:

The City analyzed the construction of the Renaissance Parkway Improvements as part of the Program Environmental Impact Report (EIR) for the Renaissance Specific Plan and California Environmental Quality Act (CEQA) review for the I-210 Logistics I and I-210 Logistics II projects. On November 8, 2010, the City certified the EIR for the Renaissance Specific Plan and on November 10, 2010, filed the Notice of Determination for the EIR.

GENERAL PLAN CONSISTENCY:

The City of Rialto has identified several goals and objectives within the City's General Plan through which the City looks to improve the community.

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

Goal 3-6: Require that all developed areas within Rialto are adequately served with essential public services and infrastructure.

Table 1
Ayala 210 LLC Off-Site Construction Cost Reimbursement - Actual Costs

Draw #	Date	Drainage Fund 230	Traffic Fund 250	Sewer Fund 660	Water Fund 670	RSA Fund 302	TOTAL
1	03/20/18	\$ -	\$ 45,655.00	\$ -	\$ -	\$ 9,750.00	\$ 55,405.00
2	04/19/18	\$ -	\$ 24,554.88	\$ -	\$ -	\$ 17,490.73	\$ 42,045.61
3	05/30/18	\$ 3,105.40	\$ 53,274.52	\$ 5,032.40	\$ 10,207.20	\$ 44,393.25	\$ 116,012.77
4	06/12/18	\$ -	\$ 73,140.04	\$ 139,745.00	\$ -	\$ -	\$ 212,885.04
5	06/26/18	\$ 10,184.00	\$ 19,253.47	\$ 10,270.00	\$ -	\$ 18,860.52	\$ 58,567.99
6	07/12/18	\$ 71,983.40	\$ 135,230.64	\$ 4,940.00	\$ 69,981.75	\$ -	\$ 282,135.79
7	08/14/18	\$ 4,629.00	\$ 416,761.34	\$ 4,668.00	\$ 4,840.00	\$ 114,059.24	\$ 544,957.58
8	09/10/18	\$ (41.80)	\$ 326,067.21	\$ -	\$ 106,096.00	\$ 44,421.03	\$ 476,542.44
9	10/22/18	\$ -	\$ 15,001.15	\$ -	\$ -	\$ 11,945.47	\$ 26,946.62
10	11/28/18	\$ -	\$ 246,757.75	\$ -	\$ -	\$ 59,586.70	\$ 306,344.45
11	01/02/19	\$ -	\$ 113,903.58	\$ -	\$ -	\$ 119,526.56	\$ 233,430.14
12	02/20/19	\$ 55,005.00	\$ 38,637.58	\$ -	\$ -	\$ 201,922.85	\$ 295,565.43
13	03/20/19	\$ 3,223.00	\$ 526.00	\$ 3,250.00	\$ 642.12	\$ 61,627.50	\$ 69,268.62
14	04/22/19	\$ -	\$ -	\$ -	\$ 2,571.03	\$ 98,909.38	\$ 101,480.41
15	06/03/19	\$ 9,690.00	\$ 153,664.40	\$ 7,267.50	\$ 1,573.89	\$ 74,376.31	\$ 246,572.10
16	06/17/19	\$ -	\$ 22,643.05	\$ -	\$ 2,728.00	\$ 18,477.23	\$ 43,848.28
17	07/31/19	\$ -	\$ 96,589.55	\$ 2,422.50	\$ 3,204.00	\$ 2,311.00	\$ 104,527.05
18	Pending	\$ 7,191.00	\$ 78,361.00	\$ 8,125.00	\$ 9,267.00	\$ 34,920.63	\$ 137,864.63
TOTAL - Actual		\$ 164,969.00	\$ 1,860,021.16	\$185,720.40	\$ 211,110.99	\$ 932,578.40	\$ 3,354,399.95

Total - Budget:	\$ 200,915.00	\$ 1,958,795.00	\$202,625.00	\$ 210,101.00	\$ 1,234,282.00	\$ 3,806,718.00
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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 City must maintain the Renaissance Parkway Improvements adding to its annual maintenance costs. The short-term impacts will be nominal due to the condition, and absorbed within the budget for Public Works.

Capital Improvement Budget Impact

The City incurred total capital costs of \$3,354,399.95 for the Renaissance Parkway Improvements allocated to specific Account #'s as follows:

Table 2
Ayala/Renaissance Construction Reimbursement Agreement
Vendor Costs

Vendor	Scope	Category	Cost	%
Kimley Horn	Civil Engineering/Project Mgt	Predevelopment	\$ 202,726.10	6.0%
CDPC	Design Consultant	Predevelopment	\$ 27,240.73	0.8%
City of Rialto	Permits/Plan Check	Predevelopment	\$ 136,238.40	4.1%
Rialto Water Service	Utility	Predevelopment	\$ 626.40	0.0%
KEC	Construction Manager	Support	\$ 165,499.74	4.9%
Ayala/210 Partners	Developer Mgt Fee	Support	\$ 53,526.00	1.6%
First American Trust	Escrow	Support	\$ 11,250.00	0.3%
All American Asphalt	Construction Contractor	Construction	\$ 2,434,941.27	72.6%
Aramexx	Landscape Contractot	Construction	\$ 322,351.31	9.6%
			=====	=====
Totals			\$ 3,354,399.95	100.0%

The City requested total release of the \$452,318.05 balance from the First American Trust Escrow Account for allocation to the respective accounts. In addition, the City earned \$59,646.50 in interest during the construction period. The total release to the city is therefore \$511,964.55.

The First American Trust statement for August 2019 is attached hereto as **Exhibit E**. The instruction to First American to release funds is attached hereto as **Exhibit F**.

Table 3
Final Close Out Accounting
Renaissance/Ayala Escrow Account

Account #	Project #	Account Name	Deposit	Final Cost	Balance	Disposition
230-500-4720-3001	180703	Drainage Fund	200,915.00	(164,969.00)	35,946.00	return to Fund 230 w/interest
250-500-4312-3001	180703	Traffic Fund	1,958,795.00	(1,860,021.16)	98,773.84	return to Fund 250 w/interest
302-500-1799-3001	180703	RSA Fund	1,234,282.00	(932,578.40)	301,703.60	return to fund 302 w/interest
660-500-7150-3001	180703	Sewer Fund	202,625.00	(185,720.40)	16,904.60	return to Fund 660 w/interest
670-500-7953-3001	180703	Water Fund	210,101.00	(211,110.99)	(1,009.99)	appropriate from Fund 670
Total			3,806,718.00	(3,354,399.95)	452,318.05	

Business Licensing

Prior to execution of the Construction Contract, All American Asphalt and Aramex shall submit a business license application and pay a Business License tax, as well as Administration and State fees.

RECOMMENDATION:

Staff recommends that the City Council:

1. Authorize release of Final Payment Request #18 in the amount of \$137,864.63, including final payments to All American Asphalt (\$121,747.06) and Arammex Construction (\$16,117.57).

2. Accept for maintenance, those Public Improvements constructed on behalf of the City of Rialto by the Developer pursuant to the Agreement.
3. Approve the GASB 34 Report for the Renaissance Parkway Improvements (**Exhibit G**).