



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: SEPTEMBER 5, 2017

FROM: PUBLIC UTILITIES DEPARTMENT WARD: 3

**SUBJECT: RELEASE AND TERMINATE A COVENANT AND AGREEMENT AND
DECLARATION OF RESTRICTIONS RECORDED AGAINST TITLE AT 5021
MYRTLE AVENUE, RIVERSIDE, CALIFORNIA DATED JULY 22, 1991 FILED
ON AUGUST 05, 1991 WITH THE COUNTY OF RIVERSIDE RECORDER'S
OFFICE AS DOCUMENT NUMBER 267762.**

ISSUE:

Authorize the City Manager or his designee to execute and file any and all documents necessary to release and terminate the Covenant and Agreement and Declaration of Restrictions recorded against title at 5021 Myrtle Avenue, Riverside, California dated July 22, 1991 filed on August 5, 1991 with the County of Riverside Record's Office as Document Number 267762.

RECOMMENDATION:

That the City Council authorize the City Manager or his designee to execute and file any and all documents necessary to release and terminate the Covenant and Agreement and Declaration of Restrictions recorded against title at 5021 Myrtle Avenue, Riverside, California dated July 22, 1991 filed on August 5, 1991 with the County of Riverside Record's Office as Document Number 267762.

BOARD RECOMMENDATION

This report is published on August 24, 2017, for the September 5, 2017, City Council meeting

On August 28, 2017, the Board of Public Utilities will hear this item for consideration to recommend to the City Council to authorize the City Manager or his designee to execute and file any and all documents necessary to release and terminate a Covenant and Agreement and Declaration of Restriction recorded again title at 5021 Myrtle Avenue, Riverside, California dated July 22, 1991 filed on August 5, 1991 with the County of Riverside Recorder's Office as Document Number 267762.

If the Board of Public Utilities approves for forward this to the City Council, we respectfully request the City Council consider the item at the September 5, 2017, City Council meeting.

BACKGROUND:

In the early 1990's, the Property Owner of 5021 Myrtle Avenue (Property) desired to build a single-family residence upon a vacant lot at the corner of Victoria Avenue and Myrtle Avenue. As a condition of development, staff required the Property Owner to extend approximately 300 feet of 8-inch water main to the Property. The Property Owner disagreed with staff's requirement and requested an extension waiver.

On June 28, 1990, the Board of Public Utilities Water Committee considered and approved the Property Owner's waiver. As a condition of approving the request, the Water Committee required that a covenant and agreement (Agreement) be recorded against the Property. The Agreement required that the Property Owner pay a proportionate share of 300 feet of 8-inch waterline extension at such time as the water main is required by the City and at the same time, pay the Distribution System Fee for the parcel frontage of the lot.

On August 5, 1991, the Agreement was recorded with the County of Riverside Recorder's Office filed at Document Number 267762.

Subsequent to recordation, the Property Owner proceeded with installation of a 2-inch water service to provide domestic water service to the property. In November 1996, the City of Riverside Building and Safety Division issued the certificate of occupancy for the Property.

The Property Owner recently contacted staff to inquire if the water main extension is still required and if not, requested that the Covenant and Agreement be removed from title. The property is currently in Escrow and both the buyer and seller want the Covenant and Agreement removed. As specified in Section 6, the Agreement shall remain in effect until such time as it is released by the City Council.

DISCUSSION:

Staff conducted an extensive assessment of the need to extend the water main when planning and designing the Arroyo Drive Water Main Replacement Project (Arroyo Project). The Arroyo Project, approved by the Board of Public Utilities on November 14, 2016, is completing construction and is replacing aging infrastructure in the area of Victoria Avenue in general and from Arroyo Drive to approximately Myrtle Avenue in particular. During the planning and design phases, staff evaluated the need to extend the existing water mains to Myrtle Avenue as contemplated in the Agreement.

Staff determined that adequate fire protection and domestic water service are available to serve existing and future development in the area. Therefore, it was determined that the water main extension contemplated in the Agreement is not necessary. To relieve the Property Owner of future obligations, the Release and Termination of Covenant and Agreement and Declaration of Restrictions (Attachment 2) needs to be executed and filed with the County of Riverside Recorder's Office to remove the Covenant and Agreement from the Property title.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

Prepared by: Girish Balachandran, Utilities General Manager
Certified as to
availability of funds: Adam Raymond, Acting Chief Financial Officer/City Treasurer
Approved by: John A. Russo, City Manager
Approved as to form: Gary G. Geuss, City Attorney

Attachment:

1. Covenant and Agreement and Declaration of Restrictions Recorded as Document Number 267762
2. Project Exhibit
3. Arroyo Drive Water Main Replacement Project Exhibit
4. Release and Terminate Covenant and Agreement and Declaration of Restrictions