



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL DATE: SEPTEMBER 12, 2017

FROM: COMMUNITY & ECONOMIC DEVELOPMENT WARDS: ALL
DEPARTMENT

SUBJECT: COVENANT AND AGREEMENT FOR ACCEPTANCE OF DRAINAGE WATERS WITH IPT WATERMAN DC LP FROM THE 25.25 ACRE VACANT PROPERTY LOCATED AT THE SOUTHWESTERLY CORNER OF WATERMAN AVENUE AND DUMAS STREET, ASSESSOR PARCEL NUMBERS 0141-431-16 AND 0141-431-17 - ADJACENT TO THE CITY-OWNED WATERMAN GOLF COURSE, CITY OF SAN BERNARDINO

ISSUE:

Approve the Covenant and Agreement for Acceptance of Drainage Waters with IPT Waterman DC LP from the 25.25 acre vacant property located at the southwesterly corner of Waterman Avenue and Dumas Street, Assessor Parcel Numbers 0141-431-16 and 0141-431-17, adjacent to the City-owned Waterman Golf Course in the City of San Bernardino.

RECOMMENDATIONS:

That the City Council:

1. Approve the Covenant and Agreement for Acceptance of Drainage Waters with IPT Waterman DC LP from the 25.25 acre vacant property located at the southwesterly corner of Waterman Avenue and Dumas Street, Assessor Parcel Numbers 0141-431-16 and 0141-431-17, adjacent to the City-owned Waterman Golf Course in the City of San Bernardino; and
2. Authorize the City Manager or his designee to execute the Covenant and Agreement for Acceptance of Drainage Waters with IPT Waterman DC LP and GSW#4 Development, LLC, including making minor, non-substantive changes, and to sign all documents and instruments necessary to complete the transaction.

BOARD RECOMMENDATION:

On August 28, 2017, the Board of Public Utilities with 8 of 8 members present, voted with 8 ayes and 0 abstentions, to recommend City Council approve the Covenant and Agreement for Acceptance of Drainage Waters with IPT Waterman DC LP from the 25.25 acre vacant property located at the southwesterly corner of Waterman Avenue and Dumas Street, Assessor Parcel

Numbers 0141-431-16 and 0141-431-17, adjacent to the City-owned Waterman Golf Course in the City of San Bernardino.

BACKGROUND:

IPT Waterman DC LP is the owner of the 25.25 acre vacant property located at the southwesterly corner of Waterman Avenue and Dumas Street in the City of San Bernardino. The City owns the Waterman Golf Course located at 1494 S. Waterman Avenue situated adjacent and downstream from the IPT Waterman DC LP property. On March 7, 2017, City Council approved a long-term ground lease with GSW#4 Development, LLC for the development of a logistics center at the Waterman Golf Course. As a result, the City entered into a 55-year ground lease with GSW#4 Development, LLC commencing on March 16, 2017 and terminating on March 16, 2072. As such, the Covenant and Agreement for Acceptance of Drainage Waters shall be entered into by the City, GSW#4 Development LLC, and IPT Waterman DC LP (Attachment 1 – Tri-Party Agreement).

DISCUSSION:

IPT Waterman DC LP is proposing to develop a light industrial project on its 25.25 acres of vacant property known as the Waterman Industrial Center. One of the analytical reports required by the City of San Bernardino for new developments is a study of hydrologic conditions and potential project impacts. The City of San Bernardino also requires that property owners enter into an agreement to accept drainage waters with adjacent property owners prior to issuing project permits. The properties in the general area slope to the south and southwest and IPT Waterman DC LP (IPT Waterman) approached the City as its adjacent downstream property owner to enter into an agreement to accept drainage waters from its future project. In February 2017, Kimley-Horn and Associates of San Diego, California prepared a Final Drainage Report for the IPT Waterman Industrial Center (Attachment C to Tri-Party Agreement). City staff and GSW#4 Development, LLC reviewed the Final Drainage Report which provides for the design of drainage mediation measures to include both on-site underground and on-site drainage systems as well as a recommendation for routine maintenance of the systems. Subsequently, the content of the Tri-Party Agreement, intended to memorialize IPT Waterman's obligations to install and maintain on-site drainage facilities and preventative measures outlined in the Final Drainage Report, was examined by the City, GSW#4 Development, LLC, IPT Waterman, and the City of San Bernardino.

The map below shows the location of the IPT Waterman property outlined in yellow in relationship to the City-owned Waterman Golf Course outlined in blue.

State of California surface waters law call for uphill property owners to take reasonable actions to reduce and or eliminate potential water damage to adjacent property owners. In addition, downhill property owners are required to accept drainage provided that the uphill property owner agrees to take



appropriate preventative measures to prevent any increases to the amount and intensity of historic drainage.

Staff reviewed the plans for onsite facilities being installed by IPT Waterman to determine if the facilities would increase either the amount or intensity of the historic drainage onto the City-owned property. Staff determined that the facilities would decrease the historic drainage and would provide a benefit to the City-owned parcel. Staff also shared this information with GSW#4 Development, LLC (who is leasing the City-owned property), and GSW#4 Development, LLC agreed to accept such drainage. Under the terms of the Tri-Party Agreement, IPT Waterman is obligated to properly maintain the on-site facilities.

Staff recommends that the City enter into the Tri-Party Agreement to require IPT Waterman to comply with the preventative drainage measures in the Final Report and indemnify the City from any claims, action, liability and damages that may arise from any drainage damages.

FISCAL IMPACT:

There is no fiscal impact to the City as result of entering into the Covenant and Agreement for Acceptance of Drainage Waters with IPT Waterman DC LP.

Prepared by:	Rafael Guzman, Community & Economic Development Director
Certified as to availability of funds:	Adam Raymond, Chief Financial Officer/City Treasurer
Approved by:	Al Zelinka, FAICP, Assistant City Manager
Approved as to form:	Gary G. Geuss, City Attorney

Attachments:

1. Covenant and Agreement for Acceptance of Drainage Waters
2. Final Drainage Report
3. Draft Board Minutes, August 28, 2017