



## **AGENDA MEMORANDUM**

Future Item for the City Council Meeting of November 13, 2018  
Action Item for the City Council Meeting of November 27, 2018

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**DATE:** October 24, 2018

**TO:** Keith Selman, Interim City Manager

**FROM:** Nina Nixon-Mendez, FAICP, Director of Development Services  
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| <b>Approval of a Deferment Agreement for Puerto Los Caballeros</b> |
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**CAPTION:**

Motion authorizing city manager or designee to execute a Deferment Agreement ("Agreement") with Puerto Los Caballeros, LLC ("Developer"), for the construction of a waterline extension.

**PURPOSE:**

Puerto Los Caballeros, LLC, is required to install approximately 3,200 linear feet of 6-inch waterline extension to provide adequate water service to the proposed commercial development.

**BACKGROUND AND FINDINGS:**

Puerto Los Caballero, LLC, is requesting a deferment agreement to guarantee the construction and installation of a 6-inch waterline extension and provide water service to the commercial development of 39.750 acres, situated in the Mariano Lopez de Herrera Grant, Abstract No. 606, Nueces County, Texas, being the same 39.750 Acre Tract described in Warranty Deed from 624 Property, LLC, a Texas limited liability company to Puerto Los Caballeros LLC, as recorded in Document No. 2017042666. Official Public Records of Nueces County, Texas.

The plat for Puerto Los Caballeros Tract Block 1, Lot 1 was approved by Planning Commission on May 16, 2018. A layout of existing and proposed improvements is included as Exhibit 2 of the agreement. The development is located south of Northwest Blvd (FM 624) and east of County Road 73.

Per Unified Development Code (UDC) Section 8.1 Puerto Los Caballeros, LLC is obligated to construct waterline public improvements. River Acres Water System, the utility provider, has authorized service to the property. River Acres Water System will approve plans for construction and inspect and accept the public improvements. Approved construction drawings must be provided by owner for review and acceptance

by the City's Development Services Engineer.

UDC Section 8.1.3.A provides that all infrastructure and public improvements shall be designed and installed in accordance with the Comprehensive Plan and applicable area development and master plans. Section 8.1.10 provides that a deferment agreement can permit subdivision plats to be approved for recordation prior to completion of improvements if cause exists to delay the required improvements for plat recordation and if a financial security is provided. The owner desires to record the plat prior to installation of the public improvements to advance business plans including construction of the water line. Since the subject property is being served by River Acres Water System, and the City will not be accepting the infrastructure, the owner requests deferment of the public improvements without a financial security. The deferment agreement provides that no building permit for vertical structures shall be issued for all or any portion of the real property that is subject of the Plan until the deferred improvements are constructed, installed in working order, and accepted by the River Acres Water System. If the owner defaults, the City shall not issue any building permits for vertical structures or certificate of occupancy. This covenant shall run with the land.

Any deviations from the approved standard form agreement which required a financial security requires a recommendation from the Planning Commission and approval by the City Council in accordance with UDC Section 8.1.10.B.4.

**ALTERNATIVES:**

Disapproval of the Deferment Agreement.

**OTHER CONSIDERATIONS:**

None

**CONFORMITY TO CITY POLICY:**

Article 8 Subdivision Design and Improvements UDC Section 8.1 General Provisions.

**EMERGENCY / NON-EMERGENCY:**

Non-emergency

**DEPARTMENTAL CLEARANCES:**

Legal

**FINANCIAL IMPACT:**

☐ Operating      ☐ Revenue      ☐ Capital      ☐ Not Applicable

| <b>Fiscal Year: 2018-2019</b> | <b>Project to<br/>Date<br/>Expenditures<br/><br/>(CIP only)</b> | <b>Current Year</b> | <b>Future Years</b> | <b>TOTALS</b> |
|-------------------------------|-----------------------------------------------------------------|---------------------|---------------------|---------------|
| Line Item Budget              |                                                                 |                     |                     |               |

|                              |  |  |  |  |
|------------------------------|--|--|--|--|
| Encumbered / Expended Amount |  |  |  |  |
| This item                    |  |  |  |  |
| BALANCE                      |  |  |  |  |

Fund(s):

**Comments:**

**RECOMMENDATION:**

Staff recommends approval of the ordinance.

**LIST OF SUPPORTING DOCUMENTS:**

Agreement