

**COUNCIL ACTION FORM**

**SUBJECT: RELEASE OF SECURITY FOR THE DEERY SUBDIVISION  
DEVELOPMENT AGREEMENT**

**BACKGROUND:**

In October of 2012, the City entered into an agreement with Deery, Deery, and Deery, LLC for the development of the Deery subdivision along SE 16<sup>th</sup> Street. The agreement provided for three years of 100 percent abatement of taxes for the improvements at the Deery Brothers auto dealer site, contingent on the developer making certain flood mitigation improvements.

The agreement included a requirement for the developer to provide security against the agreement in the form of a \$300,000 letter of credit, which the City could draw against for abated taxes if certain conditions were not met. The agreement allows for City staff to review the required security each year and reduce the amount based on progress against the agreement. The agreement requires for the security to be released at the end of the final year of abated taxes if all terms of the agreement are met. The final year of abated taxes is FY 2018/19.

The developer has met all the terms of the agreement and has requested that the security be released. The terms related to release of the agreement included completion of the flood mitigation requirements, and that the Finance Director determine at the end of the third full year of abatement that the City portion of abated taxes did not exceed the cost for the developer to make flood mitigation improvements. The flood mitigation requirements have been accomplished, and with the tax rate and valuation set for FY 2018/19, staff was able to determine that the City portion of abated taxes is less than the cost of the flood mitigation improvements. **Therefore, there will be no claim against the letter of credit, and there is no need to continue the requirement and for the developer to incur the cost to maintain the security.**

Since the original agreement called for release of security at the completion of the final year that taxes were abated or June 30, 2019, the release of the security prior to that date will require Council action.

**ALTERNATIVES:**

1. Adopt a resolution approving the full release of security for the Deery Subdivision development agreement.

2. Do not approve the release of security. Per terms of the agreement, City staff will administratively reduce the security requirement and not fully release the security on June 30, 2019.

**MANAGER'S RECOMMENDED ACTION:**

All terms of the agreement related to the abatement of taxes for the Deery Subdivision Development have been met. City Staff had determined that no claims will be made against the security held against the agreement.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby adopting a resolution approving the full release of security for the Deery Subdivision development agreement.

It is important to note that the Developer agreement will remain in full force even with this release of security.