

Agreement for Deferral of Development Fees

This Agreement for Deferral of Development Fees, dated _____, for purposes of identification, is between the City of Sacramento, a California municipal corporation (the “City”); and [DEVELOPER’S NAME], a _____ (the “Developer”).

Background

The City has established a program, set out in the Sacramento City Code (the “City Code”) as chapter 18.52, for deferring the payment of development-impact fees that otherwise are due prior to the issuance of building permits (the “Program”).

The Developer owns the real property described in Exhibit A (the “Project Site”) and intends to develop the Project Site as described in Exhibit B (the “Project”). This agreement sets forth the conditions under which the City will defer the Developer’s payment of development-impact fees for the Project in accordance with the Program. The fees to be deferred are identified in Exhibit C by building permit number (the “Deferred Fees”).

With these background facts in mind, the City and the Developer agree as follows:

Amount of Deferred Fees. As of the effective date of this agreement (see section 10 below), the total amount of the Deferred Fees is \$_____, which is the sum of the development-impact fees owed for each building permit identified in Exhibit C. The Developer shall pay this amount to the City in accordance with section 2 below.

Time of Payment. The Developer shall pay the Deferred Fees for each building permit identified in Exhibit C prior to the initiation of final inspection of the property identified in the building permit, prior to the expiration of the building permit, or three years from the effective date of this agreement, whichever occurs first. **Any certificate of occupancy or temporary certificate of occupancy issued, and any final inspection conducted, before the Developer has paid the Deferred Fees in accordance with this agreement is void *ab initio*.**

Late Payment. If, for any reason, the Developer has not paid the Deferred Fees within the timeframe set forth in section 2 above, then the City may serve the Developer with a written demand for payment as provided for in section 9. Within five business days of the effective date of this notice, the Developer shall pay the Deferred Fees, plus a late fee equal to 10% of the amount to be paid. If the Developer fails to pay the Deferred Fees when due, the City may pursue any remedies available at law or in equity.

Collection Expenses. If the Developer does not pay the Deferred Fees when due, the Developer shall also pay all expenses the City incurs to collect the Deferred Fees, including but not limited to City staff time, third-party costs, and reasonable attorneys’ fees and litigation costs, whether incurred for the city’s staff attorneys or outside attorneys.

Development Credits. The Developer must submit any claim for development credits, as defined in chapter 18.56 of the Sacramento City Code, prior to executing this agreement and in accordance with Sacramento City Code section 18.56.125. **Claims not timely made are waived.**

Prevailing Wages. Depending on the circumstances, the Developer’s participation in the Program may cause the Developer’s Project to be a “public work” subject to the prevailing wage and apprenticeship requirements of the California Labor Code and chapter 3.60 of the Sacramento City Code. **The Developer acknowledges that the City makes no representation regarding the application of these laws to the Project. The Developer should consult with the Developer’s own legal counsel on this issue before participating in the Program.**

No Third-Party Beneficiaries. Nothing in this agreement is intended or shall be construed to give any person, other than the parties to the agreement, any legal or equitable right, remedy, or claim under this agreement.

EXAMPLE FEE DEFERRAL AGREEMENT – DO NOT COMPLETE

No Assignments. The Developer may not assign this agreement or any of its rights, interests, or obligations under this agreement.

Notices. Any notice or other communication under this agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this section 9 to the persons identified below. A notice or other communication that is mailed will be effective or will be considered to have been given on the third day after it is deposited in the U.S. Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this section 9.

If to the City:

City of Sacramento
Community Development Department
300 Richards Blvd. 3rd Floor
Attention:
Director of Community Development

If to the Developer:

[Name]
[Address]
Attention:
[Name]
[Title]

Effective Date. This agreement becomes effective when all parties have signed it, as indicated by the dates in the signature blocks below.

Attorneys' Fees. The party prevailing in any litigation concerning this agreement will be entitled to an award by the court of reasonable attorneys' fees and litigation costs through final resolution on appeal in addition to any other relief that may be granted in the litigation.

Authority. Each person signing this agreement hereby represents and warrants that he or she is fully authorized to sign this agreement on behalf of his or her party and to bind that party to the performance of its obligations under this agreement.

Interpretation. This agreement is to be interpreted and applied in accordance with California law, except that the rule of interpretation in Civil Code section 1654 will not apply. Exhibits A, B, and C are part of this agreement.

Counterparts. The parties may execute this agreement in counterparts, each of which will be considered an original, but all of which will constitute the same agreement.

Entire Agreement. This agreement sets forth the parties' entire understanding regarding the matters set forth. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both parties.

(Signature Page Follows)

City of Sacramento

[Developer's Name]

By: _____

Director of Community Development

Date: _____

By: _____

Signature

Print Name

Title

Date: _____

EXAMPLE FEE DEFERRAL AGREEMENT – DO NOT COMPLETE

Approved as to Form
Sacramento City Attorney

By: _____

Attest
Sacramento City Clerk

By: _____
Signature

EXAMPLE FEE DEFERRAL AGREEMENT – DO NOT COMPLETE

Agreement for Deferral of Development Fees
The City of Sacramento and _____

Exhibit A
The Project Site

Street Address	Assessor Parcel Number	Building Permit Number

Agreement for Deferral of Development Fees
The City of Sacramento and _____

Exhibit B
The Project

In accordance with Sacramento City Code section 18.52.010, the Project consists of—

- ☐ A dwelling with five or more dwelling units and at least 50% of the building's square footage devoted to residential uses;
- ☐ A commercial or industrial use with a building area of 100,000 square feet or more; or
- ☐ A new or existing residential subdivision of five or more lots.

Project Description:

[Describe the project. If the project is a phased-development, describe the phases and explain which phase—i.e. which specific units, identified by building permit numbers—this fee deferral agreement covers.]

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The City of Sacramento and _____

Exhibit C
Deferred Fees

SEE ATTACHED