

CONTRACT FOR PAYMENT OF DEPOSITS AND INVOICES
RENDERED IN CONNECTION WITH DEVELOPMENT REVIEW SERVICES
PURSUANT TO § 1-16 OF THE DEBARY LAND DEVELOPMENT CODE

This Contract for Deposits and Invoices, dated _____, and Rendered in Accordance with § 1-16 of the DeBary Land Development Code (“Agreement”) between the City of DeBary and the Applicant for Development Review, _____ (“Applicant”) is hereby executed to ensure that the Applicant has reviewed § 1-16 of the DeBary Land Development Code (“DLDC”), understands and acknowledges Applicant’s duties and responsibilities in complying with such Section of the DLDC, and agrees to carry out such duties and responsibilities in accordance with the DLDC and the terms of this Agreement. Terms used herein shall retain their definitions as set forth in §1-16(a), DLDC, unless otherwise noted.

A. PURPOSE

Due to the burden of expenses and costs incurred by the City during the costly development review process, the City has enacted § 1-16 of the DLDC, which provides that an Applicant submitting an Application for a development-related approval (“Approval”) must cover the fees, costs, and expenses incurred by the City in reviewing such application (i.e. the Development Review Fee). As noted in § 1-16(f), DLDC (“Assessable costs, expenses and fees”), such fees, costs, and expenses include, but are not limited to, those charges associated with the time City Staff, agents, engineers, attorneys, surveyors, consultants, and contractors spend on the review, processing, inspection, and regulation of an application or development as well as any expenses directly related thereto, including but not limited to legal, inspection, and engineering costs. Pursuant to § 1-16(a), DLDC, the term, “City Staff” means and refers to City employees, City attorneys, City consultants, City engineers, and those companies, governments, individuals and other entities under contract with the City to provide services to or for the City. A Schedule of extant of City Staff and their respective billing rates has been attached hereto and incorporated herein as Schedule “A,” however; such City Staff and rates are subject to change depending upon adjustments to City Staff compensation, changes in the identities of City Staff members or contractors, increased costs to the City, or changes to the City’s contracts

or arrangements for City Staff services. Should a service provider be substituted or added and/or a rate or cost be adjusted or changed, the City shall provide the Applicant with notice thereof and an updated Schedule "A" within thirty (30) days of such addition, substitution, change or adjustment.

B. CALCULATION OF FLAT FEE AND REVIEW DEPOSIT

The total initial deposit required consists of the Flat Fee for the type application submitted and, if deemed necessary, an additional Review Deposit. The Review Deposit, if required, shall be \$2,000.00; however, such deposit may be increased if the City Manager estimates that the Development Review Fee will exceed the Flat Fee. A Review Deposit may be waived only if the City Manager determines that the Development Review Fee will not exceed the Flat Fee. No review of any application shall commence until the Flat Fee and Review Deposit, if applicable, are paid in full to the City.

The Flat Fee and Review Deposit shall be calculated pursuant to § 1-16 of the DLDC, and is set forth herein:

TYPE OF DEVELOPMENT-RELATED APPROVAL SOUGHT (Check all that Apply):

- | | | | |
|--|--|--|--|
| <input type="checkbox"/>
Preliminary Subdivision Approval | <input type="checkbox"/>
Subdivision Plan or Plat | <input type="checkbox"/>
Rezoning | <input type="checkbox"/>
Comprehensive Plan Amendment |
| <input type="checkbox"/>
Variance | <input type="checkbox"/>
Special Exception | <input type="checkbox"/>
Planned Unit Development (PUD) | <input type="checkbox"/>
Subdivision Review Exemption |
| <input type="checkbox"/>
Site Plan | <input type="checkbox"/>
Permit Related to Subdivision Improvements | <input type="checkbox"/>
Conceptual Site Plan Review | <input type="checkbox"/>
Stormwater Management Approval |
| <input type="checkbox"/>
Tree Removal Permit | <input type="checkbox"/>
Wetland Alteration Improvement | <input type="checkbox"/>
Development Agreement | <input type="checkbox"/>
Other |

IF "OTHER," PLEASE SPECIFY: _____.

Flat Fee for Type of Development-Related Review Requested: \$_____.

Review Deposit Required? YES or NO

Amount of the Review Deposit if the amount exceeds \$ 2,000.00:

\$_____.

TOTAL DEPOSIT DUE (Flat Fee + Review Deposit):

\$_____.

C. PAYMENT OF INVOICES

Regardless of the amount of the Total Deposit, the Applicant understands and agrees that the Applicant shall receive periodic Invoices from the City for assessable costs, expenses and fees incurred in association with the City’s processing and review of the Applicant’s Application. All payments to the City pursuant to this Agreement shall be made by money order, personal or company check or a cashier’s check drawn on a financial institution authorized to do business in Volusia County. Invoices shall be paid within twenty (20) calendar days of the date appearing on the Invoice in accordance with § 1-16(d), DLDC and shall be billed to the following office or individual as designated by the Applicant.

Applicant’s Designated Individual or Office to Receive Invoices:

Name: _____

Company: _____

Address: _____

i) Effect of Nonpayment

The Applicant agrees, understands and acknowledges that if an Invoice transmitted to the office or person designated by the Applicant in this Agreement is not paid within twenty (20) days of the date appearing on such invoice, Nonpayment shall be deemed to have occurred and the City shall provide notice thereof to the Applicant in accordance with § 1-16(d)(1), DLDC. If Nonpayment

occurs, the City, pursuant to § 1-16(d)(1), DLDC, shall pay City Staff a portion of the amount due under such Invoice from the Review Deposit to the extent that such funds cover any fees and costs billed and instruct City Staff to cease all work related to the Application. Any deficiency owed to the City shall bear interest from the date of notice of Nonpayment at a rate of 18 percent per annum until paid, and shall entitle the City to those remedies specified in § 1-16(d)(3), DLDC. Furthermore, in accordance with § 1-16(i), DLDC, the City shall be entitled to recover from the Applicant all costs and expenses incurred, including but limited to its reasonable attorneys' fees, paralegal fees and other costs and expenses, whether incurred prior to, during or subsequent to court proceedings or on appeal.

ii) Nonpayment Redemption

When Nonpayment occurs, the City and City Staff shall discontinue all work with regard to the Application and suspend and remove from consideration any public hearings or ministerial tasks concerning the Application, regardless of whether such was scheduled, until the Applicant does the following:

- (1) Pays all amounts due under all outstanding Invoices regardless of whether such Invoices have been issued within the last twenty (20) days; AND
- (2) Repays the Review Deposit in the amount specified in Section "B" of this Agreement.

Upon verification of the receipt in full of all amounts noted above, the City shall notify City Staff of such and instruct City Staff to resume its work with regard to the Application. Furthermore, any public hearings or ministerial tasks suspended by Nonpayment shall be reinstated for consideration and rescheduled for a time and date chosen by the City, but shall not enjoy any priority over other later-filed Applications that remain in good standing with the City. As a condition of submitting an Application to the City, the Applicant agrees to indemnify and hold harmless the City of DeBary for any damages, delays, or disputes that may arise as a result of the suspension or permanent cessation of Application review due to Nonpayment.

iii) Dispute of Invoices

Any objection to an invoice or any portion thereof must be set forth in writing, addressed and delivered to the City Manager on or before ten (10) calendar days after the date of the relevant invoice. The written objection shall set forth in detail the reasons and evidence upon which the objection and appeal are based. A timely written objection by Applicant will be processed in accordance with § 1-16(h), DLDC. If the Applicant does not timely object to an invoice, then the Applicant waives its right to challenge the invoice and the invoice shall be timely paid in full. If the

Applicant sends a written notice of objection, the Applicant shall thereafter contact the City Manager's office to request a meeting to discuss the disputed issue.

D. REIMBURSEMENT OF THE REVIEW DEPOSIT

Once the Project Account is closed in accordance with § 1-16(c), DLDC, any remaining assessable costs, expenses and fees shall be deducted from the Total Deposit. To the extent that the amount of the Total Deposit exceeds the assessable costs, expenses and fees that have not yet been paid, such residual amount of the Deposit shall be returned to the Applicant within thirty (30) days of closure of the Project Account.

E. CONCLUSION

By executing this Agreement, the undersigned attests to having reviewed and acknowledged the terms and conditions of § 1-16 of the DLDC and agrees to abide by such terms and conditions as well as any additional terms and conditions imposed by this Agreement.

City Manager or Designee

Applicant's Signature

Date

Applicant's Printed Name
(Include Title if Applicable)

Company or Entity Represented
(if Applicable)

Date

City of DeBary

“A”

Professional Service Rates for the PASS-THROUGH Ordinance
Through December 31, 2010

During the review process, should your case be referred to one or more of the following professionals you will be responsible to reimburse the City Of DeBary for expenditures on your behalf. The following is a list of the Professionals that the City has contracted with, the position title and the rater per hour charges. Also, should the contractors incur any out of pocket expenses; you are responsible for those also.

POSITION	FIRM	HOURLY RATE
Attorneys:		
Fishback, Dominick, Bennett, Stepter, Ardaman, Ahlers & Langley, LLP		
Attorney's		225.00
Law Clerk's		100.00
Paralegals		85.00
Legal Assistance		65.00
Engineers/Planners:		
GAI Consultants, Inc.		
Senior Project Manager, Senior Staff Engineer, Senior Staff Project Designer, Senior Construction Engineer, and Senior Construction Administrator		220.00
Professional Land Surveyor		140.00
Project Manager, Senior Engineer, Lead Project Designer, Staff Engineer, Staff Project Designer, Construction Engineer, Construction Administrator, Project Engineer and Planning Assistant Project Manager		118.00
Survey Project Manager		105.00
Engineer, Senior Project Designer, Senior Designer, Senior Construction Specialist, Lead Planner, and Survey Project Manager		105.00
Project Designer, Designer, and Construction Specialist, Senior Applications Developer and Senior Planner		95.00
Survey Field Supervisor		90.00
*Senior Drafter, Senior Technician, Staff Technician, GIS Designer, and Senior Survey Technician		80.00
*Drafter, Technician, and Applications Developer		65.00
*Administrative Assistant and Secretary		65.00
*Clerical and Clerk		50.00
*Nonexempt personnel categories, subject to overtime rate		
Survey Crew – 4 Person (including survey equipment and vehicle)		170.00
Survey Crew – 3 Person (including survey equipment and vehicle)		142.00
Survey Crew – 2 Person (including survey equipment and vehicle)		110.00
Environmentalists:		
Lotspeich and Associates, Inc.		
Senior Environmental Specialist		128.34
Environmental Specialist		76.23
Stormwater Consultants:		
Pegasus Engineering LLC		
Senior Project Managers		150.00
Project Manager		145.00
Senior Project Engineers		135.00
Project Engineers		110.00
Senior Designers		90.00
CAD / GIS Technicians		70.00
Administrative Assistant / Clerical		50.00

These Hourly Rates are effective Until December 31, 2010 and are subject to change.