

**CITY OF APPLE VALLEY**

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**DEPOSIT AGREEMENT**

THIS AGREEMENT, is made this \_\_\_\_ day of \_\_\_\_\_, 2010, by the Applicant and Owner identified herein, in favor of the City of Apple Valley, (hereinafter referred to as "City").

A. "Applicant" whose name and address is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. "Owner" whose name and address is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREAS, the Applicant has applied to the City for approval of either a rezoning, subdivision, preliminary plat, final plat, conditional use permit, interim use permit, site plan review/building permit authorization, variance, or sketch plan; and

WHEREAS, the Owner acknowledges the receipt of a benefit to his/her/their property, from the City's review of the application; and

WHEREAS, under authority granted to it, including Minnesota Statutes Chapters 412 and 462, the City will process the application on the condition that the Applicant enter into

this Deposit Agreement, which agreement defines certain duties and responsibilities of the Applicant, as well as the City; and the Applicant shall provide cash to the City in the amount satisfactory to the City, and provide security to the City for the payment of all costs incurred by the City.

NOW, THEREFORE, the City and Applicant and Owner agree as follows:

1. Requirement. The Applicant and/or Owner is required to make necessary deposits.

2. Preliminary Design Deposit. It is understood that the City shall commence to process the preliminary application at such time as this Agreement is executed by all appropriate parties and the cash required for the preliminary design deposit is posted with the City.

3. Final Design Deposit. It is understood that the City shall commence to process the final design state of the application at such time as the cash required for the final design deposit is posted with the City.

4. Use of Deposited Funds. The City may draw upon the deposits to pay the costs it incurs in connection with the application. The City shall determine all of its costs, including both administrative and consulting services, at the rates normally charged by the City or its consultants, determined according to City standards. A copy of the current administrative and consulting rates is attached which rates are subject to change by the City Council, without notice to the Applicant. (See Exhibit "A"). Exhibit A should not be

construed as an exhaustive list of consultants and Applicant and/or Owner shall be responsible for all other consulting fees, known and unknown, related to the application.

5. Conditions of Deposit. The following conditions shall apply to the account contemplated under this Agreement.

a. Payment shall be made to City consultants, including but not limited to engineering, legal and planning, in the amounts actually billed to the City, according to the customary consulting rates in effect at that time. Such consulting services or costs shall reasonably and necessarily relate to the subject matter of the applications for payment as determined by the City.

b. The City shall reimburse itself from the Escrow Deposit for all costs and expenses incurred by the City in connection with the implementation and enforcement of this Agreement.

c. The City shall not be responsible for paying any interest on the money deposited under this Agreement.

d. If in the discretion of the City, there is deemed to be an inadequate balance in the deposit account to pay for all the fees and costs incurred by the City, the City will notify the Applicant and Owner of the need for additional deposits. The Applicant and/or Owner agree to make such additional deposit within ten (10) days of receipt of such notice. For purposes hereof, receipt shall be deemed made upon the depositing of the notice in the U. S. Mail, postage paid.

e. No application will be acted upon or processed by the City until all amounts due at the time of submission have been paid in full, or the City Finance Department determines that there are sufficient funds available from a prior deposit to pay all estimated City bills.

6. Positive Balances in Accounts. Any and all balance in the deposit account upon the happening of any of the following events shall be paid to the Applicant with (90) days of receipt by the City of a written request by the Applicant or Owner for payment: (1) completion of the development process; or (2) the application is withdrawn by the Applicant; or (3) the application is denied by the City for any reason.

7. Deposit Amounts. The amounts contemplated for each of the purposes described under the Agreement, which may be revised by the City from time to time, shall be as follows:

**See Exhibit "B" attached hereto.**

8. Accounting. If there has been activity in the account, the City will provide an accounting of all expenses charged against each account when requested by an Applicant or Owner, but in no event more often than monthly. An accounting will be provided when a notice is made by the City for additional deposits.

9. Terms of Breach. In the event of breach of any terms of this Agreement by the Applicant or Owner, including, but not limited to the failure to make additional deposits when required by the City, the City may cease processing any application submitted by the Applicant or Owner or order the Applicant to cease any further development or progress

under the terms of this Agreement or both. Applicant and Owner agree that the sixty (60) day period in which the City must respond to the application will be extended until such time as the breach is cured and that the City may withhold approval of any portion of the application or development until such time as the breach is cured. The Applicant and Owner indemnify and hold the City harmless from any liability, claim, action or suit by or any obligation to the Applicant and Owner arising from or in connection with the City exercising or enforcing the terms and conditions of this Agreement. The Applicant and Owner shall pay all costs and expenses, including reasonable attorney fees and suit costs, incurred by the City arising from or in connection with the City enforcing any terms and conditions of this Agreement.

10. Validity. If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Agreement.

11. Binding Agreement. The parties mutually recognize and agree that all terms and conditions of this Agreement shall run with the land herein described and shall be binding upon the heirs, successors, administrators and assigns of the parties referenced in this Agreement.

12. Amendments. The terms of this Agreement shall not be amended without the written consent of all parties hereto.



THIS INSTRUMENT WAS DRAFTED BY:  
Severson, Sheldon, Dougherty & Molenda, P.A.  
7300 West 147<sup>th</sup> Street, Suite 600  
Apple Valley, Minnesota 55124  
(952) 432-3136 MGD/jlt

EXHIBIT A

**2010 CONSULTANT FEES (Hourly)**

**Current Fees**

Engineering – Civil (Bonestroo):

Air Detection Equipment (per half day)	\$25.00
Architect/Landscape Architect	\$97.00 - \$116.00
Crew Chief	\$66.00 - \$105.00
Designer/GIS/Landscape Designer/Graphics	\$81.00 - \$101.00
Engineer	\$81.00 - \$116.00
Engineering Technician	\$63.00 - \$96.00
Environmental Scientist	\$81.00 - \$116.00
Field Supervisor	\$86.00 - \$132.00
Flow Meter (per week)	\$200.00
GIS Workstation Equipment	\$22.00
GPS Submeter Unit (per use)	\$80.00
GPS Survey Equipment	\$38.00
Inspector	\$65.00 - \$90.00
Land Surveyor	\$124.00 - \$153.00
Planner	\$81.00 - \$116.00
Principal	\$116.00 - \$145.00
Project Manager	\$112.00 - \$140.00
Project Technician	\$43.00 - \$65.00
Senior Engineer/Scientist/Arch/Landscape Arch/Planners	\$107.00 - \$140.00
Senior Principal	\$122.00 - \$155.00
Specialist	\$107.00 - \$222.00
Survey Technician	\$45.00 - \$65.00
Total Station Equipment	\$28.00

Engineering – Traffic (Short Elliot Hendrickson, Inc.):

Associate Technician	\$48.74 - \$75.57
General Clerical	\$52.98 - \$86.94
Graphic Designers	\$76.79 - \$93.40
Lead Project Representative	\$81.51 - \$121.76
Lead Technician	\$79.98 - \$133.30
Principal	\$137.89 - \$193.25
Project Engineer/Architect/Planner/Specialist	\$95.10 - \$151.47
Project Manager	\$105.45 - \$164.55
Project Representative	\$69.66 - \$106.57
Senior Project Representative	\$75.06 - \$110.00
Senior Technician	\$76.76 - \$110.72
Staff Engineer/Architect/Planner/Scientist	\$75.06 - \$97.13
Survey Assistant	\$50.00 - \$75.00
Survey Instrument Operator	\$54.68 - \$71.66

EXHIBIT A (Continued)

**2010 CONSULTANT FEES (Hourly)****Current Fees**

Survey Party Chief	\$71.08 - \$111.06
Technician	\$61.64 – \$86.25
Word Processor	\$57.74 - \$85.00
Legal (Severson, Sheldon, Dougherty & Molenda, P.A.):	
Development Work – hourly rate	\$199.20
Municipal Paralegal – hourly rate	\$78.90
Soil/Water/Wetland (Dakota Cty Soil & Water Conservation District:	
Commercial, Industrial, Roads, Drainage, and Other	
Inspection fee (per hour per visit)	\$60.00
1-5 Lots	\$150.00
6-10 Lots	\$225.00
11-25 Lots	\$300.00
26-50 Lots	\$350.00
51-100 Lots	\$400.00
Over 100 Lots	\$450.00
Detached Single Family Subdivision	
Inspection Fee (per hour per visit)	\$60.00
1-5 Lots	\$125.00
6-10 Lots	\$180.00
11-15 Lots	\$225.00
16-30 Lots	\$300.00
31-50 Lots	\$350.00
51-75 Lots	\$400.00
76-100 Lots	\$425.00
Over 100 Lots	\$475.00
Multi-Family Residential	
Inspection Fee (per hour per visit)	\$60.00
1-5 Lots	\$150.00
6-15 Lots	\$225.00
16-30 Lots	\$300.00
31-50 Lots	\$350.00
51-100 Lots	\$400.00
Over 100 Lots	\$500.00
Clerical Staff (per hour)	\$38.00

**EXHIBIT B**

**2010 ESCROW SCHEDULE**

APPLICATION	ESCROW AMOUNT
Preliminary Subdivision	\$180 per acre
Preliminary Planned Development <sup>2</sup>	\$1,800 Minimum for Single Family
Waiver of Subdivision (Initial Deposit) <sup>1</sup>	\$3,600 Minimum for Commercial/Industrial and Townhouses/Multiples \$5,800 Maximum
Final Planned Development <sup>3</sup>	\$2,400 for Initial Deposit
Final Subdivision Application <sup>1</sup>	\$2,400 for 1-3 Lots - Initial Deposit \$4800 for 4 or more lots - Initial Deposit
Conditional Use Permit <sup>3</sup>	\$900
Rezoning (when site plan is involved) <sup>3</sup>	\$900
Interim Use Permit (when site plan is involved) <sup>3</sup>	\$600
Final Plat	\$600
Minor Subdivision	\$600
Site Plan Review/Building Permit Authorization	\$900
Variance	\$600
Sketch Plan	\$600

**Contract Management Escrow<sup>1</sup>**

Estimated Construction Costs	Escrow
\$0 – \$150,000	8% of costs (\$1,000 Minimum)
\$150,001 – \$500,000	6% of costs (\$12,000 Minimum)
\$500,001 +	5% of costs (\$30,000 Minimum)

<sup>1</sup> These are escrow deposits with minimums/maximums; they are not intended to be actual charges.

<sup>2</sup> This planned development escrow is not required if it is processed as part of a subdivision application for which an escrow is being collected.

<sup>3</sup> These escrows are not required if a subdivision escrow has been collected as part of the same application.

<b>For Office Use Only</b>	
_____	_____
Receipt Date	Receipt Number
_____	_____
Amount	Code