

CITY OF APPLE VALLEY

DEPOSIT AGREEMENT

THIS AGREEMENT is made this ____ day of _____, 2016, by the Applicant and Owner (hereinafter individually and collectively referred to as "Applicant") 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 Applicant acknowledges the receipt of a benefit to the 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 agree as follows:

1. Requirement. The Applicant is required to make necessary deposits.
2. Preliminary Design Deposit. Applicant acknowledges and agrees 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. Applicant acknowledges and agrees 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 charged by the City or its consultants, determined according to City's adopted fee schedule. A copy of the current administrative and consulting rates is attached as Exhibit "A," which rates are subject to change by the City, without notice to the Applicant. Exhibit "A" should not be construed as an exhaustive list of consultants and Applicant shall be responsible for all other consulting fees related to the application.
5. Conditions of Deposit. The following conditions shall apply to the deposit account contemplated under this Agreement.

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

b. The City shall reimburse itself from the deposit account 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 of the need for additional deposits. Applicant agrees to make such additional deposit within ten (10) days of receipt of such notice. For purposes hereof, receipt of notice shall be deemed made upon the depositing of the notice in the U. S. Mail, postage paid.

e. No application will be processed or acted upon by the City until all amounts due under this Agreement have been paid in full.

6. Positive Balances in Accounts. Upon the happening of any of the following events, the balance in the deposit account shall be paid to the Applicant within (90) days of receipt by the City of a written request by the Applicant 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 initial deposit amount contemplated for each of the purposes described under the Agreement, which may be revised by the City from time to time, are set forth on 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 the Applicant, 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, 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 order the Applicant to cease any further development or progress under the terms of this Agreement, or both. Applicant indemnifies and holds the City harmless from any liability, claim, action or suit by or any obligation to the Applicant arising from or in connection with the City exercising or enforcing the terms and conditions of this Agreement or action on the Application. The Applicant 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 the City and all of the parties hereto.

[Signature page follows]

THIS INSTRUMENT WAS DRAFTED BY:
Dougherty, Molenda, Solfest, Hills & Bauer P.A.
14985 Glazier Avenue, Suite 525
Apple Valley, Minnesota 55124
(952) 432-3136
(MDK: 66-24362)

EXHIBIT A

2016 CONSULTANT FEES (Hourly)

Current Fees

Legal (Dougherty, Molenda, Solfest, Hills & Bauer P.A.):

Development Work – hourly rate

\$229.69

Municipal Attorney – hourly rate

\$149.35

Municipal Paralegal – hourly rate

\$91.67

Soil/Water/Wetland (Dakota County Soil & Water Conservation District):

Commercial, Industrial, Roads, Drainage, and Other
Inspection fee (per hour per visit)

\$75.00

EXHIBIT B

2016 ESCROW SCHEDULE

APPLICATION	ESCROW AMOUNT
Preliminary Subdivision	\$198.00 per acre
Preliminary Planned Development ²	\$1,980.00 minimum for single family
Waiver of Subdivision (Initial Deposit) ¹	\$3,960.00 minimum for commercial/industrial and \$6,377.00 maximum
Final Planned Development ³	\$2,640.00 for initial deposit
Final Subdivision Application ¹	\$2,640.00 for 1 to 3 Lots - initial deposit \$5,278.00 for 4 or more lots - initial deposit
Conditional Use Permit ³	\$990.00
Rezoning (when site plan is involved) ³	\$990.00
Interim Use Permit (when site plan is involved) ³	\$660.00
Final Plat	\$660.00
Minor/Corrective Subdivision	\$660.00
Site Plan Review/Building Permit Authorization	\$990.00
Variance	\$660.00
Sketch Plan	\$660.00

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

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

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

For Office Use Only	
_____	_____
Receipt Date	Receipt Number
_____	_____
Amount	Code