

**CITY OF BLOOMINGTON  
DEFERRED PAYMENT AGREEMENT**

This Deferred Payment Agreement (“Agreement”) is entered into on \_\_\_\_\_ (“Effective Date”) by and between \_\_\_\_\_, a Minnesota corporation with a registered address at \_\_\_\_\_ (“Operator”), and the CITY OF BLOOMINGTON, MINNESOTA, a Minnesota municipal corporation, located at 1800 West Old Shakopee Road, Bloomington, Minnesota 55431-3027 (“City”).

WHEREAS, the Operator proposes to create and operate a \_\_\_\_\_ (“Business”) on property located at \_\_\_\_\_ (“Property”). Owner is the fee owner of the Property;

WHEREAS, the Business will be a change in use of the Property and the Owner is therefore subject to charges for sewer from the Metropolitan Council Environmental Services Division (“MCES”). The charges are based on Sewer Availability Charge (“SAC”) units;

WHEREAS, MCES has determined that the Property should be charged \_\_\_\_\_ SAC unit(s) for the change in use;

WHEREAS, City Code Section 11.65(e)(4) allows qualified business owners to defer the payment of sewer availability;

WHEREAS, Owner and Operator seek to have the payment of sewer availability owed for the Business deferred.

NOW THEREFORE, the parties agree as follows:

1. **Recitals.** The recitals set forth above are incorporated herein as if fully set forth.
2. **Fee.** The Owner is responsible for the following fee in relation to the establishment of the Business on the Property:

Fee	Calculation	Amount Due
MCES Sewer Availability Charge	_____ SAC Units x \$2,485	\$
	Total Fee	\$

3. **Payment of Fees.** Owner, or Operator on behalf of Owner, shall pay to the City all fees set forth in Paragraph 2 according to the following schedule:
  - a. Initial Payment. \$\_\_\_\_\_ due at time of issuance of a building permit (20% down payment and first month’s payment).

- b. Deferral Payments. \$\_\_\_\_\_ (remaining balance) with interest at an annual rate of 1.98% (based on MCES' average cost of debt; 2022 = 1.98%) due in equal monthly payments of \$\_\_\_\_\_ over 60 months. Interest shall begin accruing upon the execution of this Agreement. The first monthly payment shall be due on \_\_\_\_\_, 2022. All future payments shall be due on the 1st of each month until the fees and interest are paid in full. The final monthly payment shall be due on \_\_\_\_\_, 2027. The final monthly payment shall consist of any and all amounts remaining due under this Agreement.
  - c. Late Fees. A late fee will be added to payments received after 30 calendar days.
  - d. Prepayment. The amounts due under this Agreement may be prepaid without penalty. Interest shall accrue on the balance due at the rate set forth above up and to the date all amounts due under this Agreement are paid in full.
4. **Recalculation of Credits.** In the event the SAC units for the Property change for any reason after execution of this Agreement, any new fees assessed shall be due and payable pursuant to the City Code and shall not be subject to this Agreement.
5. **Ceasing Business Operations.** If the business ceases operations or moves from the Property, the owner and operator are responsible for making the deferral payments required by paragraph 3 of this Agreement up until the time that the Owner or Operator informs the City in writing that the business has ceased operations or has moved from the Property. The Owner or Operator must continue to make payments under this Agreement until MCES determines that the City is not required to pay MCES sewer availability charges related to the operation of the Property.
6. **Default.** "Default" shall mean the failure to make payments pursuant to the terms herein or any other breach of this Agreement and failure to cure the default within ten days of the mailing of written notice by the City to Owner and Operator by United States Mail.
7. **Remedy.** Upon Default, the Owner or Operator must alert the City's Community Development Director. At that time, the City will notify MCES about the closure and cease billing the property for unpaid fees. If MCES requires the City to pay the sewer availability charge, any balance remaining due under this Agreement shall be due immediately and payable by the business without demand or notice by the City.
8. **Costs of Collection.** To the extent permitted by law, Owner and Operator agree to pay all costs of collection, including reasonable attorneys' fees and legal expenses, incurred by the City in collection of any amounts due herein.
9. **Notices.** Notices to be given under this Agreement shall be given by enclosing the same in a sealed envelope, postage prepaid and deposited in the U.S. Postal Service, addressed to the parties as listed above.
10. **Assignment.** None of the parties shall assign this Agreement, nor any interest arising herein, without the written consent of the other parties.

11. **Run with the Land.** The covenants, waivers and agreements contained in this Agreement shall run with the Property and shall bind future owners of the Property and their heirs, successors and assigns. Owner agrees to provide a copy of this Agreement to any buyer of the Property before Owner signs a purchase agreement to sell the Property.
  
12. **Governing Law.** The laws of the State of Minnesota govern this Agreement.
  
13. **Severability.** The provisions of this Agreement are severable. If any portion of this Agreement is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Agreement.
  
14. **Entire Agreement.** The entire Agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.
  
15. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original.

**IN WITNESS WHEREOF**, this Agreement has been executed as of the day and year first above written.

**IN WITNESS WHEREOF**, the City and the Operator have caused this Agreement to be executed by their duly authorized representatives in duplicate on the respective dates indicated below.

**CITY OF BLOOMINGTON, MINNESOTA      OPERATOR**

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
 Its: Director of Community Development

BY: \_\_\_\_\_  
 Its: \_\_\_\_\_

Reviewed and approved by the City Attorney

\_\_\_\_\_  
 City Attorney