

## AGREEMENT

This Agreement (“**Agreement**”) is made between the County of Ramsey, Minnesota (“**County**”) and the City of Arden Hills, Minnesota (“**City**”) and is entered into as of \_\_\_\_\_, 2021.

## WITNESS

WHEREAS, the County is performing certain roadway improvements to Lexington Avenue (the “**Project**”) in the area of 3787 Lexington Avenue, Arden Hills, MN (the “**KDP Parcel**”), which improvements include construction of a intersection/curb cut/entry apron adjacent to and leading into the **KDP Parcel** in the locations shown on the site plan attached hereto as Exhibit A (the “**Site Plan**”), a traffic control signal at that intersection, and related safety and structural improvements; and

WHEREAS, a private entity (“**KDP**”) intends to redevelop the **KDP Parcel** and the City wishes to ensure that certain roadway improvements required for the **KDP Parcel** to be used as intended, namely curb cut/entry apron and traffic control signaling be completed no later than October 31, 2022 (the “**Development Deadline**”); and

WHEREAS, the County has entered into an intergovernmental agreement with other counties and government entities to share the expenses of the **Project** (the “**Cooperative Agreement**”); and

WHEREAS, City seeks the option to perform, or cause others to perform, certain temporary roadway improvements (the “**Temporary ROW Work**”), defined below, in order to ensure the **KDP Parcel** is able to open by the **Development Deadline**; and

WHEREAS, the County has agreed to allow the City to perform the **Temporary ROW Work**, or to oversee a third-party perform the **Temporary ROW Work**, provided the City is ultimately responsible for the quality and workmanship of the **Temporary ROW Work**, is responsible for all costs and expenses, reimburses the County for removing the temporary improvements, and complies with the procedures herein; and

WHEREAS, the City and **KDP** have/will enter into a separate agreement (the “**Development Agreement**”) that will provide that **KDP** will perform the **Temporary ROW Work** in the event the City elects to perform them.

NOW THEREFORE, for ten dollars (\$10.00) and other good and valuable consideration, receipt acknowledged, the parties agree to the following terms and conditions:

1. Definitions defined in the recitals set forth above are restated by this reference.
2. **Temporary ROW Work**: The **Temporary ROW Work** includes a temporary traffic signal and a temporary paved entry apron/curb cut, as well as other temporary stormwater, lighting, grading, or other improvements necessary to implement the **Temporary ROW Work**.

3. Election: The City may elect to perform Temporary ROW Work by providing written notice of its intent to the County on or after February 1, 2022, if the County has not awarded a construction contract for the Project on or prior to that date.

4. Requirements: City agrees that it is responsible for ensuring:

a. All necessary permits, including those for access, building or signal work; and including those from Ramsey County or other governmental entities; are obtained prior to the initiation of any work. Nothing herein waives the City's obligation to obtaining any permit or approval required for the proposed work within the County's right-of-way or for which impacts the access to or use of the public road.

b. Ingress and egress access through the temporary paved entry is not opened before October 1, 2022, or sooner if the entry way into the KDP Parcel located just north of the temporary paved entry has been closed due to the Project or Temporary ROW Work, and may not remain open for more than twelve months, unless approved by County.

c. Any work is installed or constructed as planned, is substantially consistent with County plans for the Project, and adequate traffic controls during construction of the Temporary ROW Work are maintained.

d. All temporary improvements are maintained in good working order until removed by the County. If repair or replacement is necessary due to vehicle collision, act of nature, or any other reason, City will immediately repair or replace the temporary improvements.

e. The installation of Temporary ROW Work is performed in conjunction with the Project and does not interfere with the orderly progression of the Project.

5. Costs: The City shall be responsible for all costs associated with the installation of Temporary ROW Work, the maintenance and repair of the Temporary ROW Work. The City shall perform the installation or have another party perform the installation and shall pay for those costs directly. The City shall repair and maintain the Temporary ROW Work, or have another party perform those services, and shall pay for those costs directly. The County, or its contractor, will remove the Temporary ROW Work, and will invoice those costs in the manner provided by the Cooperative Agreement, except that no portion of those costs shall be shared with any partners.

6. **Notices.** All notices, requests, demands, and other communications required or permitted to be given under this Agreement shall be given in writing (at the addresses set forth below) by any of the following means: (i) personal service; (ii) electronic mail or an attachment to electronic mail in Adobe Systems, Inc. Portable Document Format (PDF); or (iii) delivery by any reputable overnight courier service. Any notice, demand or request sent pursuant to either (i) or (ii) hereof shall be deemed received upon such personal service or upon dispatch by electronic means and if sent pursuant to (iii) hereof shall be deemed received one (1) day following delivery to such courier service.

To County:

Director of Public Works and County Engineer  
Ramsey County-Department of Public Works  
1425 Paul Kirkwold Drive  
Arden Hills, MN 55112  
Att: John R. Mazzitello, Deputy Director-Program Delivery  
[john.mazzitello@co.ramsey.mn.us](mailto:john.mazzitello@co.ramsey.mn.us)

To City:

Public Works Director and City Engineer  
City of Arden Hills  
1245 West Highway 96  
Arden Hills, MN 55112  
[dswearingen@cityofardenhills.org](mailto:dswearingen@cityofardenhills.org)

7. **Enforcement/Attorney Fees.** The City or County shall have the right to enforce the provisions of this Agreement against the other party by a proceeding at law or in equity. Nothing herein shall be deemed to provide any third-party rights to this agreement. Nothing herein shall be interpreted as the County indemnifying or holding harmless the City in its Development Agreement with KDP or any related entity. Each party shall be responsible for their own attorney fees and costs.

8. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages. Executed copies hereof may be delivered by facsimile or as an attachment to electronic mail in Adobe Systems, Inc. Portable Document Format (PDF) or other graphic file type and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

9. **Authority.** Each person whose signature is affixed hereto represents and warrants that such person is authorized to execute this Agreement on behalf of and to bind the entity on whose behalf such person's signature is affixed.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first hereinabove written.

COUNTY:

COUNTY OF RAMSEY, MINNESOTA

By: Ted W Schoenecker  
Name: Ted Schoenecker  
Title: Director of Public Works/County Engineer

Approved as to form:

James Mogen  
James Mogen, Assistant County Attorney

CITY:

CITY OF ARDEN HILLS, MINNESOTA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit A  
Site Plan

