

SEWER LINE OWNERSHIP, OPERATION, AND MAINTENANCE AGREEMENT

THIS AGREEMENT is made on this 14 day of Feb., 2022, by and between the City of Mounds View, a Minnesota municipal corporation (“Mounds View”); the City of Arden Hills, a Minnesota municipal corporation (“Arden Hills”); and Ramsey County, a political subdivision of the State of Minnesota (“Ramsey County”).

Recitals

A. Ramsey County is the current owner of a portion of the real estate commonly known as the Twin Cities Army Ammunition Plant located in the City of Arden Hills (the “Subject Property”).

B. Ramsey County and Arden Hills are undertaking actions related to the redevelopment of the Subject Property pursuant to the project commonly known as Rice Creek Commons (the “Redevelopment Project”).

C. Mounds View, Arden Hills, and the United States Department of the Army (“Army”) previously entered into an agreement, dated June 1st, 1994 (the “1994 Agreement”), for the construction, maintenance, and operation of an 18-inch gravity-fed sanitary sewer line (the “Sewer”) which originated on the Subject Property and ran to and discharged in a sanitary sewer interceptor owned and operated by, and located within, Mounds View. A copy of this agreement is attached hereto as Exhibit A.

D. Pursuant to the 1994 Agreement, the Army was responsible for all costs associated with constructing, operating, and maintaining the Sewer.

E. The Subject Property has been purchased and is now owned by Ramsey County and the County, in conjunction with Arden Hills, is seeking to redevelop the Subject Property. Continued and updated or expanded sanitary sewer service is necessary for the redevelopment of the Subject Property, and the parties hereto desire to enter into this Agreement to establish the continued use and maintenance of the previously installed Sewer which connects to sanitary sewer infrastructure in Mounds View. Arden Hills anticipates assuming ownership of the Sewer from Ramsey County as part of the redevelopment of the Subject Property. The parties hereto desire to enter into this Agreement to further establish their respective rights, duties, and obligations related to the Sewer.

Agreement

NOW, THEREFORE, in consideration of the premises and their mutual promises, the parties hereto hereby agree as follows:

1. Current Ownership. The Sewer was originally constructed pursuant to the 1994 Agreement between the cities of Mounds View and Arden Hills, and the Army. Pursuant to that agreement, the Army was responsible for the costs associated with constructing, operating, and maintaining the Sewer. As the successor-in-interest to the Subject Property, Ramsey County is now

the owner of the Sewer. As part of this Agreement, Ramsey County agrees to transfer ownership to Arden Hills, and Arden Hills accepts ownership of the Sewer. Mounds View specifically renounces any ownership interest in the Sewer, and Arden Hills and Ramsey County agree that Mounds View has no interest in or obligation to operate or maintain the Sewer, except as expressly provided in this Agreement.

2. Continued Use. Mounds View hereby agrees to allow Arden Hills to continue its use and operation of the Sewer. Such continued use shall include the right of Arden Hills to discharge up to 1,607 gallons per minute through the Mounds View sanitary sewer system, pursuant to the terms of this Agreement.

3. Metering. Arden Hills shall be solely responsible for maintaining or replacing the totalization meter which was previously installed upon the Sewer in order to read the amount of flow. Within 180 days of execution of this Agreement, Arden Hills shall replace the meter serving the Sewer with a radio read meter approved by Mounds View. Upon written notice by the Mounds View City Engineer that such meter is not functioning properly, Arden Hills shall repair or replace such meter within 72 hours. Failure to ensure an operational meter shall be a default under this Agreement.

4. Future Transfer of Ownership to MCES (metering station). The parties hereto may jointly request that Metropolitan Council Environmental Services (“MCES”) take over the metering station associated with the Sewer. If accepted, MCES will own and operate the meter station and provide treatment billing from this meter station for both Arden Hills and Mounds View. In the event that MCES takes ownership of the metering station, it is expressly acknowledged by the parties hereto that none of the wastewater being transported by the Sewer originates within, or is otherwise the responsibility, financial or otherwise, of Mounds View.

5. Use Charges. Arden Hills hereby agrees to pay Mounds View for its use of Mounds View’s sanitary sewer system. The parties expressly acknowledge that Arden Hills’ continued use of Mounds View’s infrastructure creates a unique and significant burden on that system. The current rate to be paid by Arden Hills is \$43.00 per each 73,000 gallons to be discharged through Mounds View’s sanitary sewer system, as calculated by the totalization meter. The parties expressly acknowledge that this amount may be subject to future adjustment. If Mounds View desires to make such adjustments, it must notify Arden Hills, in writing, at least 90 days prior to imposing any adjustments. These payments shall constitute full compensation to Mounds View for the operation, maintenance, and depreciation of Mounds View’s sanitary sewer infrastructure pursuant to this Agreement.

6. Compliance with Regulations. Arden Hills shall be solely responsible for ensuring that it complies with all regulations of Mounds View, including ensuring that the Sewer remains in good and working condition.

7. Ownership; No Warranty. The parties expressly acknowledge that the Sewer remains the personal property of Arden Hills. Arden Hills shall insure the sewer line to the point of connection, the meter, and the meter station (Mounds View MH-38). Mounds View shall incur no financial or other obligation for the maintenance, repair, or operation of the Sewer. Mounds View also provides

no warranty that the Sewer shall be sufficient for its intended purpose, nor that the Sewer's connection to Mounds View's infrastructure shall be capable of handling any increase in flow.

8. Indemnification of City. Arden Hills hereby agrees to defend, indemnify, and hold harmless Mounds View, its officials, agents, and employees for any claims or damages, of whatever kind or nature, which are caused by the continued use of the Sewer, its connection to Mounds View's infrastructure, or otherwise arising out of or under this Agreement.

9. Removal. Mounds View shall incur no obligation to remove the Sewer. At such time as Arden Hills may remove or abandon the Sewer, it shall be solely responsible for removing same, and it shall further reimburse Mounds View for all of Mounds View's actual costs in disconnecting the Sewer from the Mounds View's infrastructure and capping such connection.

10. Term. This Agreement shall commence on the date and year first above written and shall continue in full force and effect until terminated as provided below.

11. Future Transfer of Ownership to MCES (Sewer). Arden Hills may request in the future that MCES take over ownership of portions of the Sewer. MCES, at the time of the request, shall consider its policies in making its decision. If MCES determines that portions of the Sewer satisfy its acquisition policies, an agreement between MCES, Arden Hills and Mounds View will be required. The portion of the Sewer that MCES would consider acquiring would be that portion between its connection with the Mounds View sewer to, and including, the MH adjacent to and immediately west of I35W ("Council Interceptor"). Upon the occurrence of such events, the parties hereto agree that the terms of this Agreement shall be modified, with all rights and responsibilities for the Council Interceptor being assigned to MCES. However, in the event that MCES should refuse to accept the transfer of the Sewer as stated herein, the terms of this Agreement shall continue in full force and effect until such time as Arden Hills and Mounds View may reach an agreement with the Council as to the full assignment of the rights and obligations under this Agreement.

12. Termination. This Agreement may be terminated in the following manner:

- a. By mutual written consent by the parties;
- b. Upon 90 days' written notice by Mounds View, except that in the event of a leak, a determination by Mounds View that the increased flow is likely to cause damage to the Mounds View system, or other emergency, without notice, and;
- c. Upon 90 days' written notice by Arden Hills upon a finding that the Sewer is no longer necessary.

13. Reporting, Billing and Payment. The Mounds View City Engineer shall prepare quarterly flow reports and billing to be delivered to Arden Hills. Arden Hills shall remit payment to Mounds View within 30 days of receipt of the billing.

14. Governing Law. This Agreement shall be interpreted in accordance with and be governed by the laws of Minnesota.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

16. Amendment. This Agreement may be amended by the parties hereto only by written instrument executed in accordance with the same procedures and formality followed for the execution of this Agreement.

17. Merger. This Agreement is the final expression of the agreement of the parties and the complete and exclusive statement of the terms agreed upon and shall supersede all prior negotiations, understandings, or agreements. Neither party hereto makes any representations, warranties, or stipulations, either oral or written, other than those expressly contained herein.

18. Severability. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement unless the part or parts which are void, invalid, or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either city.


IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date and year first above written.

CITY OF ARDEN HILLS

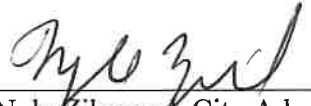
David Grant, Mayor

David Perrault, City Administrator

CITY OF MOUNDS VIEW



Carol A. Mueller, Mayor



Nyle Zikmund, City Administrator

RAMSEY COUNTY

Ryan T. O'Connor, County Manager

Ted Schoenecker, Public Works Director

Ramsey County Attorney

EXHIBIT A

Prior Agreement

**SANITARY SEWER CONNECTION AND USE AGREEMENT
MOUNDS VIEW-ARDEN HILLS-U.S. DEPARTMENT OF THE ARMY**

PARTIES

1. This Agreement is dated the 01 day of June, 1994 and is entered into by and between the City of Mounds View, a statutory city under the laws of the State of Minnesota (herein "Mounds View"); the City of Arden Hills, a statutory city under the laws of the State of Minnesota (herein "Arden Hills"); and the U.S. Department of the Army (herein the "Army".)

RECITALS

2. The Army owns and operates the Twin Cities Army Ammunition Plant (herein "TCAAP") located within Arden Hills. The Army wishes to construct, operate and maintain a gravity sanitary sewer system and appurtenances (herein the "Project") which extends from TCAAP to the intersection of County Road H and U.S. Highway 10 in Mounds View, where it will discharge into a sanitary interceptor owned by Mounds View. The route of the Project crosses a common border between Mounds View and Arden Hills (herein the "Project Site"). The Project and Project Site are illustrated on Exhibit A, attached. Sanitary sewage will flow from TCAAP, through the Project, and discharge into the sanitary interceptor owned and operated by Mounds View. Arden Hills is willing to allow the extension of the Mounds View sanitary sewer system within the borders of Arden Hills; and Mounds View is willing to accept the sanitary sewage from the Project pursuant to the terms and conditions of this Agreement.

TERMS AND CONDITIONS

3. In consideration of the mutual undertakings herein expressed, the parties agree as follows:

- 3.1 **CONSTRUCTION OF PROJECT:** The Army, at its sole cost, shall construct the Project and all appurtenances thereto. If Arden Hills elects to have additional flow capacity constructed at the time the Project is constructed, Arden Hills shall be solely responsible for additional costs associated with the construction of the additional capacity. The Mounds View and Arden Hills Engineers shall be allowed to review proposed plans and specifications for the Project. The connection to the Mounds View sanitary sewer system shall be made according to plans and specifications that have been approved by the Mounds View Engineer as evidenced by the issuance of a Mounds View sanitary sewer permit.
- 3.2 **PERMITS:** The Army shall be responsible for obtaining all permits and authorizations as necessary in order to construct the Project including permits from the State of Minnesota, Ramsey County, and the Metropolitan Waste Control Commission.

- 3.3 INSPECTION: The Engineers for Mounds View and Arden Hills shall be allowed to inspect the Project at all reasonable times during the period of construction and thereafter upon notice to the Army.
- 3.4 ACQUISITION OF EASEMENTS AND RESTORATION: At its sole cost, the Army shall acquire whatever permits or temporary construction easements are necessary in order to construct the Project and shall be responsible for restoration of easement areas as required by the appropriate unit of government.
- 3.5 PERMITTED FLOW: Except in the event of an emergency as determined in the sole discretion of the Mounds View Engineer, the Army shall be allowed to discharge sewage from the Project through the Mounds View sanitary sewer system at a rate not to exceed 1,000 gallons per minute.
- 3.6 CONNECTION AND USE CHARGES: Subject to availability of funds, the Army shall pay to Mounds View Connection Permit/Inspection charges as well as use charges. The Army understands that the use charges may be adjusted from time to time in compliance with the Mounds View regulations and that such adjusted charges and the payment thereof shall be applicable to the Project Site. The Army shall pay Mounds View monthly billings for the volume of sewage metered at the standard city rate for industrial/commercial users within the city. This rate is currently \$43.00/73,000 gallons and subject to future adjustment. This payment shall be full compensation to Mounds View for the operation, maintenance, and depreciation of the joint sewer line after the connection point.
- 3.7 METERING DEVICE: The totalization meter shall permit the Mounds View Engineer to read the amount of flow by access to the Metering Station Totalization Meter. The Army shall construct at its cost a sewage meter station subject to the approval of Mounds View. The Army shall maintain the sewage meter station at its cost. This shall include periodic calibration of measured flow rates by an independent testing laboratory. Mounds View shall read the meter and submit billings to the Army.
- 3.8 COMPLIANCE WITH MOUNDS VIEW REGULATIONS: Army shall comply with all Mounds View regulations relating to the use, operation, inspection or repair of the Mounds View sanitary sewer system. The Army shall be solely responsible for the operation, maintenance, and depreciation of its system upstream of the connection to the Mounds View sanitary sewer at the northwest corner of County Road H and Trunk Highway 10.
- 3.9 INDEMNIFICATION: Subject to availability of funds, the Army hereby agrees to indemnify and hold harmless Mounds View and Arden Hills for any damages, of whatever kind or nature, caused in connecting to or in using the Mounds View sanitary sewer system for the flow of sewage from the Project Site except to the extent that such claims arise from the negligence or otherwise wrongful acts or omissions of the City of Mounds View.

3.10 INSURANCE AND PERFORMANCE BOND: Prior to the construction of the Project, Army shall require that its contractor provide Mounds View and Arden Hills with an insurance certificate, acceptable to each City's attorney, which shall indicate as a minimum:

- A. That Mounds View and Arden Hills have each been named as additional insured parties on the Army contractor policy.
- B. That the Army contractor will have, in force, during construction, the following minimum insurance coverage for public bodily injury and property damage:
 - 1. Public Bodily Injury: *\$250,000 for each person, \$600,000 total injuries for one occurrence.*
 - 2. Property Damage: *\$100,000 for one occurrence, \$200,000 total damages during the policy period, \$100,000 automobile damage for each occurrence.*
- C. That the insurance policies may not be terminated without at least ten days written notice to each of the insured parties.
- D. That the Army shall provide Mounds View and Arden Hills with copies of its contractor's payment and performance bond.

3.11 AVAILABILITY OF ARDEN HILLS FACILITIES: If Arden Hills extends its own sanitary sewer system to the Project Site, the following terms and conditions shall apply:

- A. At its costs, and subject to availability of funds, the Army shall disconnect the Project from the Mounds View sanitary sewer system according to plans and specifications approved by the Mounds View Engineer.
- B. At its costs, and subject to availability of funds, the Army shall connect the Project to the Arden Hills sanitary sewer system according to plans and specifications approved by the Arden Hills Engineer.
- C. All other terms and conditions of this Agreement shall remain in force and govern the ongoing relationship between Arden Hills and the Army provided that the term **Arden Hills** shall be substituted wherever the term **Mounds View** now appears in the Agreement except where such substitution would obviously be unnecessary.
- D. In lieu of compliance with the provisions of Section 3.11 and its subdivisions A through D, Arden Hills and the Army may enter into a mutually acceptable agreement for the connection to and use of the Arden Hills sanitary sewer system.


- 3.12 EFFECTIVE DATE: This Agreement shall become effective upon its execution by each of the parties. Each party shall provide the other parties with a certified copy of the party's action authorizing execution of the Agreement. This Agreement shall continue until terminated as hereinafter provided.
- 3.13 TERMINATION: This Agreement may be terminated in the following manner:
- A. By mutual consent of the parties.
 - B. By the Army upon thirty days written notice to Mounds View and Arden Hills that it intends to disconnect from the Mounds View sanitary sewer system. The Army shall disconnect at its own costs and in accordance with the directions of the Mounds View Engineer. The Army's payment obligation shall continue up to and including the date of disconnection.
 - C. By Arden Hills upon thirty days written notice to Mounds View and the Army, if it extends its sanitary sewer system so that it is available to the Project Site. Any termination of the Agreement in this manner shall not rescind the provisions of Section 3.11 and its subdivisions which shall survive the termination and shall govern the relationship between the Army and Arden Hills for the connection to and use of the Arden Hills sanitary sewer system.
 - D. By Mounds View if the Army violates the terms of this Agreement and such violation is not corrected or resolved within ten working days after Army receives written notice of such violation from Mounds View; or, if the continued use of the Mounds View sanitary sewer system by the Army pursuant to the terms of this Agreement will cause damage to the Mounds View sanitary sewer system, ordinary wear and tear excluded.
 - E. By Mounds View immediately upon receipt of notice from the Army that funds are no longer available to finance the Army's obligations pursuant to the terms of this Agreement.
- 3.14 COST REIMBURSEMENT: The Army shall reimburse Mounds View and Arden Hills for all costs incurred related to the implementation of this Agreement, including but not limited to administrative, legal and engineering and the review and implementation of the terms of this Agreement provided that such amount shall not exceed \$1,500.
- 3.15 MISCELLANEOUS: Nothing herein shall be construed as approval by Mounds View or Arden Hills for past, present or future Army policies regarding the use and occupation of TCAAP, and Army hereby indemnifies and holds harmless Mounds View and Arden Hills for any damage claims resulting therefrom.

- 3.16 **FLOW REPORTS:** Mounds View shall provide the Arden Hills Administrator with quarterly flow reports which record, in one thousand gallon increments, the volume of water flow from TCAAP through the Mounds View sanitary sewer system. The reports shall be sent out concurrent with the Army's quarterly billing statements.
- 3.17 **CONSENT:** Arden Hills hereby consents to the extension of the Mounds View sanitary sewer system to the TCAAP Property as described in this Agreement.
- 3.18 **AMENDMENTS:** This Agreement shall be amended by the parties as necessary to facilitate the transfer of ownership of the interceptor system at such time as the Metropolitan Waste Control Commission consents to such a transfer.


IN WITNESS WHEREOF, the parties have hereunto caused this Agreement to be executed.

CITY OF MOUNDS VIEW

Dated: _____

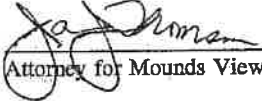
By: 
Jerry Linke
Its: Mayor

Dated: 5-17-94

By: 
Samantha Orduno
Its: City Administrator


Pursuant to authority granted by its City Council on the ___ day of _____, 19__.

APPROVED AS TO FORM:


Attorney for Mounds View

CITY OF ARDEN HILLS

Dated: 4-25-94

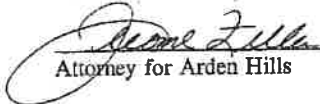
By: 
Thomas Sather
Its: Mayor

Dated: 4-25-94

By: 
Dorothy Person
Its: Administrator

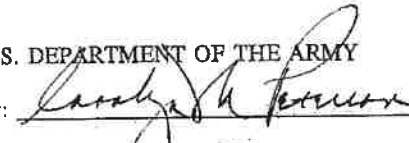
Pursuant to authority granted by its City Council on the 25 day of April, 1994.

APPROVED AS TO FORM:


Attorney for Arden Hills

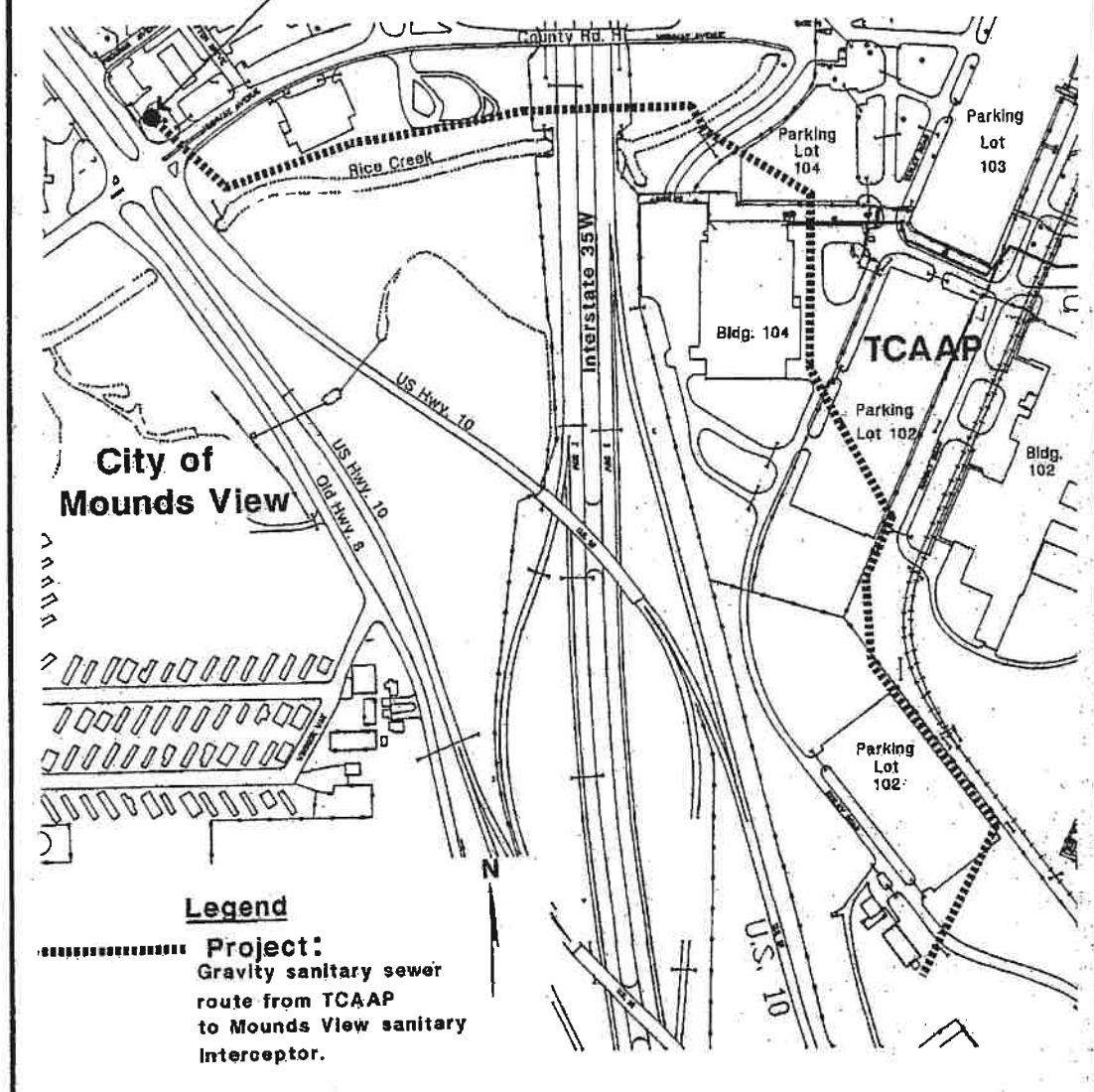
U.S. DEPARTMENT OF THE ARMY

Dated: 4-28-94

By: 
CAROLYN M. PETERSON
Its: Contracting Officer

**Mounds View Sanitary
Sewer Connection Point**

Exhibit A



Legend
 - - - - - Project:
 Gravity sanitary sewer
 route from TCAAP
 to Mounds View sanitary
 Interceptor.

TWIN CITIES ARMY AMMUNITION PLANT FEDERAL CARTRIDGE COMPANY NEW BRIGHTON, MINNESOTA 55112	REF. DWG. NO.	SPEC. NO.	TITLE:	
	DRAWN BY SAS	DATE 3-22-94	Project Site SCALE N/A DRAWING NO. 710697	
	APPROVED BY SRM	DATE 3-22-94		