

ALDI, INC.
DEVELOPMENT AGREEMENT
CITY OF RAMSEY, ANOKA COUNTY, MINNESOTA

This Development Agreement (hereinafter the “**Agreement**”) is dated as of this _____ day of _____, 2023, and is by and between the City of Ramsey, a Minnesota municipal corporation (the “**CITY**”) and ALDI INC. (MINNESOTA), a Minnesota corporation (“**ALDI**”). The CITY and ALDI are sometimes collectively referred to herein as the “**Parties**”.

Recitals

A. ALDI is, or, pursuant to that certain Real Estate Purchase Agreement, dated March 3, 2023 (as may be amended, the “**Purchase Agreement**”) by and between ALDI and the City, shall become the fee title owner of land generally known as 7992 Sunwood Drive Northwest, Ramsey, MN 55303 and legally described as:

Lot 1, Block 1, COR Four, Anoka County, Minnesota.

(the “**Subject Property**”)

B. That on May 12, 2023, the CITY received a Site Plan Application from ISG on behalf of ALDI, proposing to construct a retail building to operate on the Subject Property, and associated site improvements (cumulatively, the “**New Building**”).

C. That on July 11, 2023, the City Council approved the Site Plan for the proposed New Building.

D. ALDI intends to cause the Required Improvements (defined below) to the Subject Property to be constructed without financial participation by the CITY.

Agreement

SECTION I
REQUIRED IMPROVEMENTS AND FINANCIAL RESPONSIBILITIES

1. **City Code Compliance.** The CITY approves the site plan referenced above (the “**Site Plan**”) conditioned on ALDI developing the Subject Property in accordance with the applicable provisions of City Code.

2. **Conformance with the Plans.** The Subject Property shall be developed substantially in accordance with the plans (the “Plans”) prepared by ISG, dated June 12, 2023, subject to any revisions contemplated by this Agreement. The Plans remain subject to: (a) the CITY’s staff’s review and approval of the Plans to, among other things, confirm that the revisions requested in the CITY’s review have been made; and (b) such further revisions as ALDI may propose and the CITY approves (which such approval shall not be unreasonably withheld, conditioned, or delayed). The Plans shall not be attached to this Agreement, but are in the CITY’s files. The term “Plans” as used in this Agreement shall mean and include any comments made by the CITY’s staff pursuant to item (a) above or any further revisions requested by ALDI and approved by the CITY pursuant to item (b) above.
3. **Incorporation of All City Code Requirements.** That the recitals above and the applicable provisions of the City Charter, Subdivision Code, and Zoning Code of the CITY, as amended to date hereof, are incorporated herein by reference.
4. **State Building Code Compliance.** The New Building shall be constructed in accordance with the requirements of the CITY’s Building Code.
5. **Fire Lanes.** Fire lanes shall be maintained on the Subject Property. The exact locations of such fire lanes on the Subject Property shall be as set forth on the Site Plan. ALDI herein agrees to post “No Parking” signs along private driveways and drive aisles in accordance with City Code requirements and in conjunction with the instructions of the Fire Chief.
6. **Required Improvements.** ALDI shall construct and install the following site improvements on the Subject Property and adjacent right-of-way in accordance with the specifications and location as shown on the Plans. The term “Required Improvements” and the allocated costs therefor means as follows:

Required Improvement	Cost	125% of Cost Release Amount
a. Temporary and permanent erosion control.	\$11,250.00	\$14,062.50
b. Lot Grading	\$129,000.00	\$161,250.00
c. Storm drainage facilities	\$65,375.00	\$81,718.75
d. Sanitary sewer service	\$2,000.00	\$2,500.00
e. Water services	\$22,950.00	\$28,687.50
f. Parking Lot and Driveway bituminous pavement	\$242,500.00	\$303,125.00
g. Concrete walkways, curb, and gutter	\$74,930.00	\$93,662.50
h. Landscaping, including Sunwood Drive NW boulevard streetscape plantings	\$86,412.00	\$108,015.00
TOTAL	\$634,417.00	\$793,021.00

ALDI agrees to construct the Required Improvements according to the terms and conditions of this Agreement, substantially in accordance with the Plans.

7. **Required Improvements Completion Date.** The Required Improvements shall be completed within twelve (12) months after the commencement of construction of the Required Improvements, subject to Unavoidable Delay (the “**Required Improvements Deadline**”). For the purposes of this Agreement, the term “**Unavoidable Delay**” means delays, outside the reasonable control of the party claiming its occurrence, which are the result of strikes, other labor troubles, unusually severe or prolonged bad weather, acts of God, global pandemic, epidemic, government mandated quarantine or travel bans, government mandate closures, fire or other casualty to the development contemplated by this Agreement, litigation commenced by third parties which, by injunction or other similar judicial action or by the exercise of reasonable discretion, results in delays, or acts of any federal, state or local governmental unit, shortages of materials, extraordinary restrictive governmental laws or regulations (such as gas rationing), riots, war, military power, sabotage. The time for performance of any obligation of ALDI set forth in this Agreement shall be extended for the period of the delay of such obligation due to Unavoidable Delay(s).
8. **Required Improvements Financial Guaranty.** In order to ensure the installation of the Required Improvements in accordance with CITY specifications and in a timely manner, ALDI shall be required to deposit with the CITY an irrevocable letter of credit, reasonably approved as to form by the CITY, in the amount of **\$793,021.00** (the “**Financial Guaranty**”), which is 125% of the CITY's estimated cost of the Required Improvements. Prior to the issuance of the building permit, the Financial Guaranty must be provided as required herein.

At the request of ALDI, the CITY shall, not more frequently than once monthly, release that part of the Financial Guaranty for any completed portion of the Required Improvements in the amount set forth in Section 6. Upon completion of the construction of all or any remaining of the Required Improvements, the Financial Guaranty shall be returned to ALDI and ALDI shall be required to provide the landscaping maintenance guaranty described in Section III Paragraph 11 of this Agreement. The determination of completion of the construction of the Required Improvements shall be made by the CITY, which such determination must be made reasonably, without delay, and in good faith. If, subject to Unavoidable Delay, ALDI fails to substantially construct and install the Required Improvements on or prior to the Required Improvements Deadline, and such failure continues for a period of 60 days (or such other greater period of time reasonably necessary to cure such failure if such failure is not reasonably able to be cured within such 60-day period, provided ALDI has undertaken procedures to cure such default within such 60-day period and diligently pursues such cure to completion) after ALDI's receipt of written notice from the City specifying such failure in reasonable detail, the City Council may order the completion of the Required Improvements with CITY day labor and/or by letting contracts for said completion and draw upon the letter of credit for payment. ALDI hereby grants permission and a license to the CITY and/or its contractors and assigns to enter upon the Subject Property for the purpose of completing the construction and installation of the Required Improvements in the event of ALDI's default, which such permission and license shall automatically terminate and expire upon substantial completion of the Required Improvements.

9. **Site Inspection Fees.** ALDI shall be responsible for all reasonable site inspection costs incurred by the CITY related to the installation of Required Improvements. ALDI shall make a cash deposit into the appropriate escrow account at the CITY and the CITY shall have the authority to draw upon these funds for the purpose of compensating for inspection services. The amount of the deposit shall be equal to **\$31,721.00**. Upon completion of the Required Improvements to the reasonable satisfaction of the CITY, any surplus balance remaining in the CITY's escrow account shall be refunded to ALDI within 30 days thereafter.

10. **Storm Water Regional Basin Contribution.** In lieu of constructing on-site storm water management basins, ALDI shall contribute an equal amount as the cost of constructing on-site basins to the CITY for use of the regional storm water basin in the amount of **\$23,220.00**.
11. **Storm Water Management Fee.** ALDI is responsible for satisfying applicable Storm Water Management Fee requirements for the plat of COR FOUR. ALDI must pay a Storm Water Management Fee of **\$7,715.00** (1.45 acres x \$5,321.00 per acre). ALDI acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
12. **Park Dedication.** ALDI is responsible for satisfying applicable Park Dedication requirements with the plat of COR FOUR. ALDI must pay **\$7,395.00** (park dedication) and **\$1,885.00** (trail development). These amounts are based off 1.45 acres at \$5,100 per acre (park dedication) and \$1,300 per acre (trail development).
13. **Sanitary Sewer Connection (Trunk) Fees.** ALDI is responsible for satisfying applicable Sanitary Sewer Trunk Fee requirements for the plat of COR FOUR. ALDI must pay a Sanitary Sewer Trunk Fee of **\$5,891.00** (1.45 acres x \$4,063.00 per acre). ALDI acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.
14. **Water Connection (Trunk) Fees.** ALDI is responsible for satisfying applicable Water Trunk Fee requirements with the plat of COR FOUR. ALDI must pay a Water Trunk Fee of **\$10,647.00** (1.45 acres x \$7,343.00 per acre). ALDI acknowledges that these fees are estimates. The rate in effect when the Plat is recorded will be collected.

SECTION II PERMITS AND OCCUPANCY

15. **Requirements for Building Permit.**
 - a. No building permit shall be issued until ALDI has: (a) provided the CITY Building Official with a Certificate of Survey; (b) the Financial Guaranty described in Section I Paragraph 8 to the CITY; and (c) obtained all necessary permits from the Lower Rum River Watershed Management Organization and has provided a copy of such permit to the CITY, if applicable; and
 - b. No occupancy permit shall be issued until ALDI has: (a) constructed vehicular access to the Subject Property, including the installation of at least one layer of bituminous surfacing; and (b) constructed all utilities and storm water facilities this Agreement requires to serve the Subject Property and such utilities and storm water facilities are in place, operational and accepted by the CITY as provided herein.

SECTION III ON-SITE LANDSCAPING

16. **Maintenance Guaranty for Landscaping.** It is herein agreed that ALDI shall provide a maintenance guaranty to ensure the survival of the plantings that are a part of the Required Improvements. Said maintenance guaranty shall consist of cash or an irrevocable letter of credit, reasonably approved as to form by the CITY, in the amount of **\$6,300.00** [# plantings (28 trees and 168 shrubs) x cost/planting (\$300/tree and \$75/shrub) x 30% average non-survival rate], which shall be in effect for a two (2) year period commencing on the date of the CITY's written acceptance of said plantings as part of the Required Improvements.

At the end of the two (2) year period, ALDI shall contact the CITY to schedule a final inspection of the landscaping. The determination that all plantings that have been planted in accordance with the Plans have either survived or have been replaced shall be made by the CITY, which determination shall be reasonably be made in good faith. Upon approval of the final landscape inspection by the CITY, the maintenance guaranty shall, within 30 days, returned to ALDI. In the event ALDI fails to maintain the required plantings for a two (2) year period, and such failure continues for 60 days (or such other greater period of time reasonably necessary to cure such failure if such failure is not reasonably able to be cured within such 60-day period, provided ALDI has undertaken procedures to cure such default within such 60-day period and diligently pursues such cure to completion) after ALDI's receipt of written notice specifying in reasonable detail such failure, the City Council may order the replacement of plantings with CITY day labor and/or by letting contracts and draw upon the escrow for payment. Only the City Council shall have the authority to direct replacement of the plantings and withdraw from the escrow account. ALDI hereby grants permission and a license to the CITY and/or its contractors and assigns to enter upon the Subject Property for the purpose of replacing plantings in the event of ALDI default as described herein.

SECTION IV GENERAL

17. **Boulevard and Area Restoration.** ALDI shall be responsible for restoring all areas disturbed by the development grading operation in accordance with the approved erosion and sediment control plan. ALDI shall also be responsible for the cost of cleaning any material amounts of soil, earth or debris from the wetlands within and adjacent to the Subject Property resulting from grading performed in the development of the Subject Property.
18. **Construction Site Maintenance.** ALDI shall adhere to all CITY ordinances relating to, but not limited to, dumping of garbage, site development, construction debris, open burning, etc.
19. **Construction, Hours and Entrance Signs.** The CITY restricts construction and delivery hours to Monday through Saturday 7:00 a.m. to 10:00 p.m. ALDI is required to provide a sign at each entrance point stating delivery and construction operation hours. Said signs are not to exceed eighty (80) square feet in size and must be clearly visible at all times during the construction period. Extended hours are subject City Administrator's permission based on reasonable circumstances.
20. **Estimated Cost.** It is understood and agreed that cost amounts set forth in this Agreement as Required Improvements, unless specified as fixed amounts, are estimated. ALDI agrees to pay the entire cost of Required Improvements.
21. **Site Plan Approval Expenses.** ALDI agrees that it will pay to the CITY all actual, reasonable, third-party CITY expenses incurred in the approval of the Site Plan, including, but not limited to reasonable administration expenses, engineering and legal fees. Said expenses shall be paid within 30 days after ALDI's receipt of billing and reasonable supporting documentation from the CITY and outstanding billings shall be paid prior to issuance of the building permit. Any permissible expenses incurred after the release of the building permit shall also be paid within said 30 day billing period. Failure to pay the CITY's expenses within the 30 day billing period will permit the CITY to draw upon any of the escrows required by this contract for payment.
22. **Reimbursement to the City.** ALDI agrees to reimburse the CITY for all actual, reasonable, third-party costs incurred by the CITY in defense or enforcement of this Agreement, or any portion

thereof, including court costs and reasonable engineering and reasonable attorney's fees in the event the CITY is successful in such defense or enforcement.

23. **Invalidity of Any Section.** If any portion, section, subsection, sentence, clause, paragraph or phrase of this Agreement is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect or void any of the other provisions of this Agreement.
24. **Proof of Authority.** ALDI shall provide the CITY with an authority resolution evidencing the authority of the signatory to this Agreement.
25. **Violation of This Agreement.** ALDI shall be in default of this Agreement if ALDI shall fail to perform obligations pursuant to this Agreement within 30 days after ALDI's receipt of written notice from the CITY specifying such failure (or such other greater period of time reasonably necessary to cure such failure if such failure is not reasonably able to be cured within such 60-day period, provided ALDI has undertaken procedures to cure such default within such 60-day period and diligently pursues such cure to completion) (each an "**Event of Default**"). If an Event of Default by ALDI shall occur, the CITY shall be entitled to recover, from ALDI or the issuer of ALDI financial guarantee, the full amount of any and all financial guarantees as necessary for the CITY to be reimbursed for its actual, reasonable costs and expenses incurred to cure such Event of Default. A material Event of Default by ALDI shall also be grounds for denial of Building Permit or issuance of Certificate of Occupancy.
26. **Certificate of Occupancy.** The term "**Certificate of Occupancy**" as used in this Agreement shall be defined as a document issued by the CITY's Building Official, which authorizes the structure to be used for its intended purposes.
27. **Agreement Binding on Successors and Assigns.** ALDI agrees that this Agreement shall be binding upon its successors and assigns.
28. **Counterparts.** This Agreement may be executed in counterparts, each of which when executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same document.
29. **Enforcement.** This Agreement shall be enforceable only by the Parties and no other person or entity shall have the right to enforce any of the provisions contained herein. No amendment or modification of this Agreement shall be effective unless in writing and signed by both Parties.
30. **Notices.** Required notices shall be in writing, shall be deemed effective upon receipt, may be transmitted by the Parties' legal counsel, and shall be either hand delivered to the Parties, its employees or agents, or mailed to them by certified or registered mail, or by reputable overnight courier (e.g., FedEx or UPS) at the following address:

TO ALDI:

Aldi Inc. (Minnesota)
Attn: Andrew Mack, Director of Real Estate
4201 Bagley Ave. N.
Faribault, MN 55021

With a Copy to:

Kayne Law Group
Attn: Jacob Worrel, Esq.
612 Park Street, Ste 100
Columbus, OH 43215

TO THE CITY:

City of Ramsey
Attn: Community Development Director
7550 Sunwood Drive NW
Ramsey, MN 55303

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