



TO: Mayor Chuck Barney
Members of the City Council

FROM: David Wicke, Assistant City Engineer

DATE: 4/24/2018

**SUBJECT: GALUSHA RANCH ADDITION (PLAT) AGREEMENT
PROJECT (4353)**

I. RECOMMENDED ACTION

1. Recommend approval of the Development (Plat) Agreement by the Council.
2. Authorize the Mayor to sign the Development (Plat) Agreement.

II. DEPARTMENT CONTACT PERSONS

Lance Meyer, City Engineer	(701) 857-4100
David Wicke, Assistant City Engineer	(701) 857-4100

III. DESCRIPTION

A. Background

This area was previously unplatted portion of the Northwest ¼ of the Southeast ¼, Northeast ¼ of the Southeast ¼, Southwest ¼ of the Southeast ¼ and southeast ¼ of the southeast ¼ of Section 6, Township 154, Range 82 West, Ward County, North Dakota, located outside the City of Minot corporate limits but within the City of Minot extra territorial jurisdiction, for the purposes of the construction of a residential lots within the unplatted portion of the property as described above within Ward County.

The Developer wishes the portion of the property to be rezoned from AG, Agricultural District to RA, Agricultural Residential District with other portions of the property to remain in Zone AG. The subject property is located on the north side of County Highway 14A (54th Ave SE) and the west side of 27th St SE. The Property will be divided into thirty-eight (38) lots in total. Block 1, Lot 3 will remain in Zone AG, with all the remaining lots to be rezoned to RA, Agricultural Residential District. This item was approved by the Planning Commission and City Council in February/March of 2018. The Development agreement must be approved and signed before the plat will be recorded.

B. Proposed Project

Staff and the Developer, Ready Builders II, Inc., wish to execute and agreement relating to the obligations for development and conditions outlined by City Staff and approved by the Planning Commission and City Council.

The language is consistent with other agreements the City has executed in the past with other Developers. A security valued at 120% of all public street and utility infrastructure costs as determined by the design engineer's opinion of probable construction costs or by a contractor's bid shall be required and provided by the Developer to the City; the required security shall be in the form of an unconditional letter of credit or performance bond, and shall be submitted in a form acceptable to the City Attorney.

- C. Consultant Selection
NA

IV. IMPACT:

- A. Strategic Impact:
NA
- B. Service/Delivery Impact:
NA
- C. Fiscal Impact:
NA

V. ALTERNATIVES
NA

VI. TIME CONSTRAINTS
Council's approval of the recommendation is required before the plat can be recorded.

VII. LIST OF ATTACHMENTS

- A. Galusha Ranch Addition Plat Development Agreement

GALUSHA RANCH ADDITION PLAT AGREEMENT

Required Improvements within publicly dedicated rights-of-way and easements serving the Galusha Ranch Addition to the City Minot / Ward County, ND

This Agreement is made this _____ day of _____, 2018 between the City of Minot, a municipal corporation (“City”), whose mailing address is P.O. Box 5006, Minot, ND 58702 and Ready Builders II, Inc., (“Developer”), whose mailing address is 605 31st Avenue SW Minot, ND 58701.

WHEREAS, the Developer owns the property known as the Galusha Ranch Addition, more specifically described as: Being an unplatted portion of the NW1/4SE1/4, NE1/4SE1/4, SW1/4SE1/4 and SE1/4SE1/4 of Section 6, Township 154 North, Range 82 West, Ward County, North Dakota, located within the City of Minot extraterritorial limits (“Galusha Ranch Addition”), for the purposes of the construction of residential lots within Ward County;

WHEREAS, the City is requiring the Developer to complete specific improvements and other conditions before granting further permits for the Development of the Galusha Ranch Addition;

WHEREAS, the purpose of this Agreement is to memorialize the specific improvements and conditions the Developer shall complete before the City will authorize additional permits for the development of Galusha Ranch Addition;

WHEREAS, in addition to any specific improvements and conditions provided in this Agreement, Exhibits A, B, and C are hereby incorporated herein by reference;

WHEREAS, the City is requiring the following improvements as conditioned within approval of the Galusha Ranch Addition Plat:

NOW, THEREFORE, it is hereby agreed and stipulated that the Developer shall complete the following before the City grants any further permits for the Development of the Galusha Ranch Addition:

1. Public Street and Utility Infrastructure Improvements
 - a. Developer shall install, at its sole cost, the storm sewer culverts and rural water main utilities, including all services to all Lots to serve the development within the Galusha Ranch Addition.
 - i. Sanitary sewer septic systems shall be installed by Developer or Developer’s successors with the approval of First District Health.
 - ii. Potable water systems shall be approved by North Prairie Rural Water. Installation of rural water systems shall be by separate agreement with North Prairie Rural Water.
 - iii. Sanitary Sewer Easements to the City of Minot provided through unplatted SW1/4NE1/4, Sec.6-154-82 and through Lots 1, 2 & 3, Block 1, Galusha Ranch Addition for future extension of public utilities. Easements shall be

dedicated on the plat or filed by separate instrument.

- b. Developer shall install, at its sole cost, the public rural street section to serve the development within the Galusha Ranch Addition. The Developer may install a paved road surface on top of the rural roadway section. At a minimum, the rural section roadways shall meet Township roadway standards. Any improvements to Ward County Road 14A shall meet standards adopted or specified by the Ward County Highway Department.
 - i. Developer shall design and install, at its sole cost, an urban road section from County Road 14A north to a sufficient distance, as determined and approved by the City Engineer, to address site grading and drainage issues concerning neighboring properties.
- c. At Developer's sole cost, the required public street and utility infrastructure improvements shall be designed by a registered professional engineer in North Dakota and submitted to the City Engineering Department for review. Approval of the plans by the City Engineering Department is required before any construction can begin.
- d. At the Developer's sole cost, all public street and utility infrastructure shall be installed and tested per the City Standard Specifications and Details by the Developer. North Prairie Rural Water infrastructure shall be installed to North Prairie Rural Water requirements.
- e. At the Developer's sole cost, all public street and utility infrastructure shall be inspected periodically as determined by the engineer, and by an engineering firm, licensed to do work in North Dakota, and under the direction of a professional engineer, licensed to do work in North Dakota. At the Developer's sole cost, concrete testing, asphalt testing, density tests and bluetop grading verification of subgrade and aggregate base shall also be submitted to the City Engineer.
 - i. Areas of failing tests and/or work deemed unacceptable to the Engineer shall be corrected and re-inspected at the Developer's sole cost. All work must be verified to meet Section 1.d of this Agreement before building permits will be issued.
- f. The Developer shall warranty all public street and utility infrastructure work constructed as part of the Galusha Ranch Addition to be free of material and workmanship defects for a period of two years after final written acceptance by the City.
 - i. At any time during the two-year warranty period, the Developer shall correct any deficiencies found by the City. The Developer shall be responsible for the sole cost of correcting any deficiencies identified by the City including, but not limited to, contractor costs, attorney's fees, and engineering costs.
- g. The Developer shall submit record drawings certified by the engineer of record to the City for all public street and utility infrastructure installed as part of the Galusha Ranch Addition conforming to the City's Record Plan Policy on file with the Engineering Department. Record drawings shall be submitted in hard copy, dwg, and GIS format.
- h. Security valued at 120% of all public street and utility infrastructure costs, as determined by a contractor's bid for the work or the design engineer's opinion of

probable cost, shall be required and provided by the Developer to the City; the required security shall be in the form of an unconditional letter of credit or performance bond, and shall be submitted in a form acceptable to the City Attorney.

2. Storm Water Management System

- a. Onsite storm water management for the Galusha Ranch Addition is required. Developer shall submit a storm water management plan to the City for review and approval by the City Engineer. Any required improvements by the City shall be installed at the Developer's sole cost.
 - i. Maintenance of any culverts, channels, pipes, ponds, and any other appurtenance to the system shall be maintained by the Developer, his successors, and assigns or by a homeowner's association.

3. Erosion Control Practices

- a. Developer shall meet all erosion control practice requirements of the State of North Dakota.
- b. Developer shall obtain written approval from the City Engineer on all erosion control practices.

4. Planning Requirements

- a. Developer shall submit a Storm Water Management Plan for review and approval by the City Engineer.
- b. Erosion control practices will need to meet State of North Dakota requirements and approved by the City Engineer.
- c. The township or a homeowner's association will be responsible for road maintenance.

5. Public Land Dedication

- a. Per the Minot Park District determination, Developer shall provide a 15' Utility and Trail Easement on the plat along the southern and eastern portion of 43rd Avenue.
- b. Developer shall pay a fee of \$381.00 per lot to the City at the time of building permit issuance.

6. County Road 14A Improvements

- a. Improvements to Ward County Road 14A are governed by the existing Memorandum of Agreement (MOA) between the Developer and Ward County. The MOA is attached and incorporated by reference into this agreement (Exhibit C).

7. Right of Way and Easement Maintenance

- a. Maintenance of right of ways and easements shall be provided by a homeowner's association. The homeowner's association shall be created and recorded at the Ward County Recorder's office prior to receiving any building permits.

8. Developer shall sign a non-protest of annexation agreement with the City for lots within Galusha Ranch Addition. Annexation shall occur when public sanitary sewer is extended through the Galusha Ranch Addition. At such time, connection to public sewer shall be required and any associated fees shall be paid to the City.

9. This Agreement shall be governed by and interpreted according to North Dakota law. The

appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in Ward County, North Dakota.

10. Each party represents and warrants that this Agreement has been duly authorized, executed and delivered by it; that the undersigned representatives are duly authorized to sign this Agreement on behalf of the party for whom they are signing and whom they represent; that performance of all the actions contemplated thereby have been duly authorized by all requisite action and that this Agreement constitutes a valid and binding obligation, enforceable against Developer, its successors and assigns in accordance with its terms.
11. Neither this Agreement nor any item hereof may be changed, waived, discharged, or terminated orally, but only by instrument in writing by all parties hereto.
12. If any part of this Agreement shall be judged invalid, the remainder shall not be invalidated. Any part of any section found to be invalid shall not invalidate the remaining part of said section, and the invalid section may be reformed to be valid and enforceable to the extent allowed by law.
13. This Agreement shall be recorded in the Ward County Recorder's Office, and shall constitute a covenant running with the land, and shall be binding on the Developer, its administrators, executors, assigns, heirs and any other successors in interests, including any homeowner's association.

IN WITNESS WHEREOF, the parties hereto, after due authorization by its respective governing bodies/partners, hereby sign this agreement on the day and year first above written.

CITY OF MINOT, ND

By: _____
Chuck Barney, Mayor

Attest: _____
Kelly Matalka, City Clerk

READY BUILDERS II

By: _____

EXHIBIT 'A'

Galusha Ranch Addition Plat

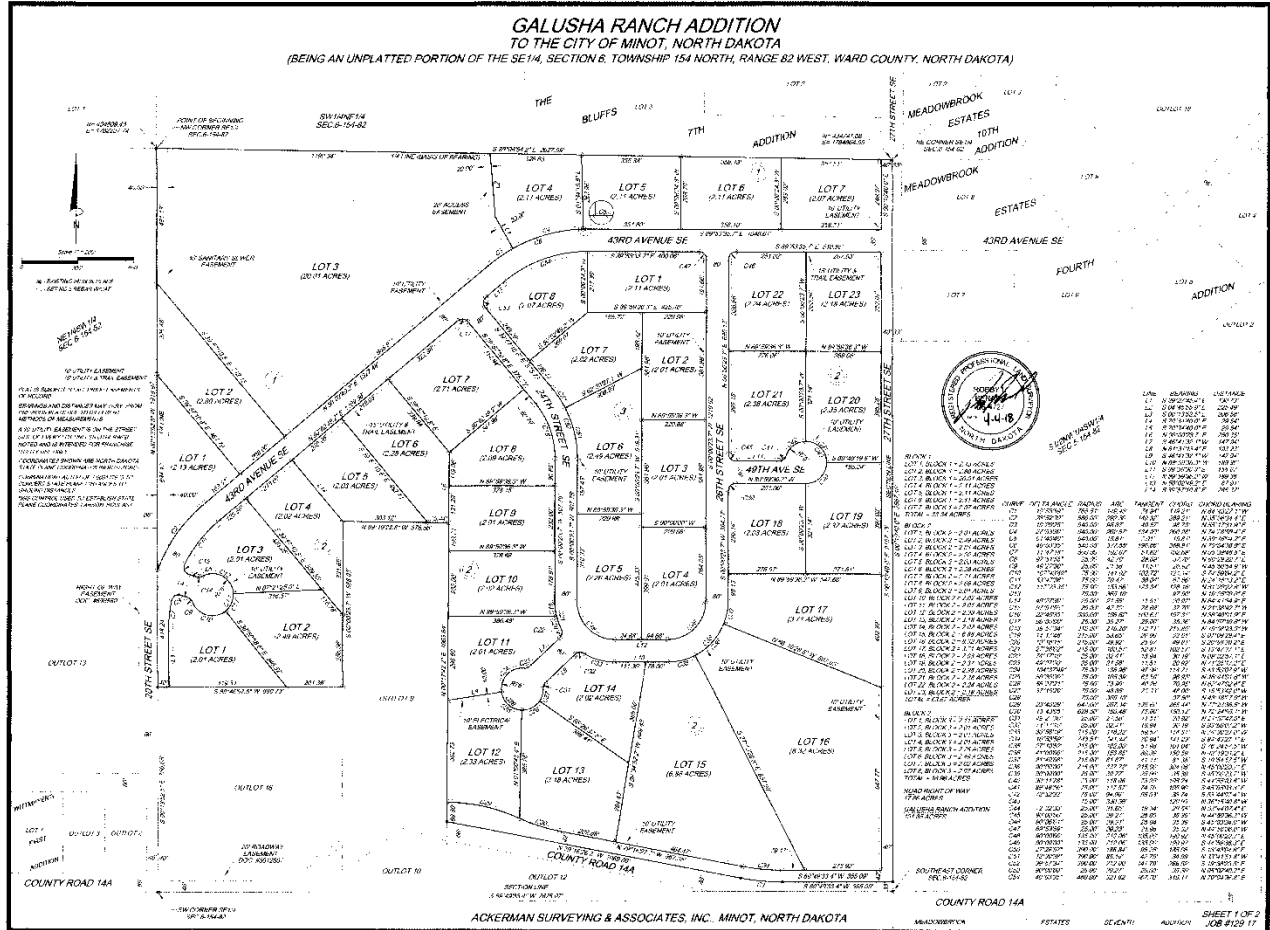


EXHIBIT 'B'

CITY OF MINOT DEVELOPMENT POLICY

In the interest of public safety and orderly development within the City of Minot a policy has been established that establishes what sequence of events needs to take place in order for building permits and occupancy permits to be issued for all residential, commercial, and industrial development within the City of Minot jurisdiction.

- A. Building permits for individual sites will be issued upon:
 - 1. Approval of a storm water management plan for the site or subdivision.
 - 2. Approval of site plan or subdivision plans.
 - 3. Installation and testing of necessary water and sewer main to serve the adjacent properties.
 - 4. Adjacent streets or access easements to serve the properties have the appropriate gravel sections put in place.
 - 5. Provide City with verification that proper state storm water permits have been obtained for the project.

Upon completion of the above items building permits will be issued as deemed appropriate by the Engineering department. It will be the developer's responsibility to maintain the gravel streets or access easements throughout the project in a manner sufficient to allow access for emergency vehicles and inspection personnel. If at any time, it is determined that the roadways have fallen into an unacceptable condition no further permits will be issued until the necessary corrections have been made.

- B. Occupancy permits for individual sites will be issued upon:
 - 1. Water and sewer mains serving properties have passed the appropriate tests.
 - 2. Utilities to include gas and electric have been installed to the property.
 - 2. Curb and gutter and one lift of asphalt have been installed in roadway or easement adjacent to property.

EXHIBIT 'C'

MEMORANDUM OF AGREEMENT

T FOR THE DEVELOPMENT OF THE SE1/4 SECTION 6-154-82

**Memorandum Of Agreement
For the Development of the SE ¼ Section 6-154-82**

1. Purpose.

This Agreement is made this 20 day of March 2018 between Ward County (County) and Stacey Abel (Developer). This MOU will lay out the Scope and Responsibilities, between the two entities concerning the proposed development located on the north side of County Road 14 located in the SE ¼ of Section 6 Township 154 Range 82

2. Background

The project location is located north of County Road 14 approximately 1.5 miles east of US 83. The current roadway is a two lane paved road with two 12ft lanes and an ADT of 975. The roadway is a county minor collector and is an off system roadway. The speed limit on the roadway ranges between 45 MPH to 35 MPH with advisory curve signs. This is a rural section of road, which has lower density development consisting of 2 to 5 acre lots with some of the older lots being less than 2 acres. The county road would continue to support lower density development. If in the future, a higher density development were to occur, Ward County would require the agreement to be updated, addressing potential road improvements need to County Road 14 and who would be responsible for those improvements.

Previously when the developer platted Outlot 16, right of way was platted along the west side of the property at the quarter line and adjacent to right of way platted when Outlot 2 was platted. The Developer also platted additional right of way on the east portion of Outlot 16 and a 20 ft roadway easement in order to provide right of way for a realignment of the curve in the County Road.

3. Responsibilities

Developer:

1. Will provide borrow material to construct turn lanes and other improvement to County Road 14 adjacent to the development.
2. Will provide right of way on the north side of County Road 14 adjacent to the SE ¼ of Section 6 Township 154 Range 82, with the exception of Outlot 9, to improve the access off of County Road 14 into the development and to improve the curve to the east of Outlot 16.
3. Will provide access to Outlot 16 from the new proposed subdivision roadway and understands once the roadway is constructed, the existing access to outlot 16 will be eliminated.
4. The developer will coordinate the construction of the access to match up with either the existing roadway or proposed turn lanes.

County

1. Will construct a left turn lane into the proposed development when the traffic counts warrant the construction or in conjunction with the construction of the subdivision road.
2. Will remove the existing access to Outlot 16 off of County Road 14 once the subdivision roadway is constructed, if not completed by the developer.
3. The county will coordinate the construction of the turn lanes to match up with the proposed access.

**Memorandum Of Agreement
For the Development of the SE ¼ Section 6-154-82**

Ward County:

Alan M. Walter
Alan Walter, Chair

3/20/18
Date

Attest:

Devra Smestad
Devra Smestad, Auditor/Treasurer

Developer:

Stacey Abel
Stacey Abel

3/21/18
Date

Attest:

Kimberly A. Larson
