



**TO:** Mayor Shaun Sipma  
Members of the City Council

**FROM:** Lance Meyer, PE, City Engineer

**DATE:** 11/20/2018

**SUBJECT: REAL ESTATE TRANSFER TO THE CITY OF MINOT – 27<sup>TH</sup> AVENUE NW  
REGIONAL STORM WATER POND (3575)**

**I. RECOMMENDED ACTION**

1. Recommend approval of the transfer of land, whose legal description is Lot One (1), Block One (1), Tollberg Shores Second Addition, Ward County, North Dakota, from Northern Lights Property Development, LLC to the City of Minot.
2. Authorize the Mayor to sign the Real Estate Transfer Agreement.

**II. DEPARTMENT CONTACT PERSONS**

Lance Meyer, City Engineer	857-4100
Emily Huettl, Assistant City Engineer	857-4100

**III. DESCRIPTION**

- A. Background  
Under a Development Agreement with the City dated August 31, 2012, Northern Lights Property Development, LLC created a regional storm water pond as a part of the 27<sup>th</sup> Avenue NW Storm Sewer Improvements Project. The Development Agreement provides that upon completion of Northern Lights’ obligations under the Development Agreement, the Development Agreement will terminate and Northern Lights is required to transfer title to certain property, improvements, and associated easements to the City. Northern Lights has completed their obligations.
- B. Proposed Project  
The proposal is to transfer the real estate to the City of Minot for the consideration in the sum of \$1.00. The City will then own and maintain the regional storm water pond. The attached real estate transfer agreement and warranty deed have been reviewed and agreed upon by Northern Lights and their attorney, the City Engineer, and the City Attorney.
- C. Consultant Selection  
N/A

**IV. IMPACT:**

- A. Strategic Impact:  
This transfer will give the City the ability to monitor and maintain this regional storm water pond which effects several hundred acres of drainage.

B. Service/Delivery Impact:  
N/A

C. Fiscal Impact:  
Maintenance costs for the regional storm sewer pond and associated infrastructure will be paid through property taxes and storm sewer fees.

**V. ALTERNATIVES**

There are no alternatives as Northern Lights has meet all of the requirements of the 2012 Development Agreement.

**VI. TIME CONSTRAINTS**

N/A

**VII. LIST OF ATTACHMENTS**

A. Real Estate Transfer Agreement

B. Warranty Deed

## REAL ESTATE TRANSFER AGREEMENT

THIS AGREEMENT, made and entered into on this \_\_\_\_ day of November, 2018, by and between **NORTHERN LIGHTS PROPERTY DEVELOPMENT LLC**, with a principal office address of 4585 Coleman Street, Bismarck, ND 58503, hereinafter referred to as "Northern Lights", and **CITY OF MINOT**, hereinafter referred to as "City";

Whereas, Northern Lights and City entered into an "Agreement for Development of the 27<sup>th</sup> Ave. NW Storm Sewer Improvements" effective August 31, 2012, hereinafter referred to as the "Development Agreement";

Whereas, in order to obtain final plat approval for Tollberg Shores Second Addition, Northern Lights was required to comply with conditions of City planning and zoning;

Whereas, the Development Agreement provides that upon completion of Northern Lights' obligations under the Development Agreement, the Development Agreement will terminate and Northern Lights is required to transfer title to certain property, improvements, and associated easements to City;

Whereas, Northern Lights has completed its obligations under the terms of the Development Agreement and is prepared to transfer title to that certain property, improvements, and associated easements to City;

Whereas, pursuant to the terms of the Development Agreement, upon transfer of title, City shall accept all improvements and associated storm water/drainage easements, including the on-going and future responsibility to administer, maintain, and repair the improvements.

Now, therefore, Northern Lights, in consideration of the covenants and agreements of City hereinafter contained, agrees to transfer, convey and dedicate to City by warranty deed that certain property, improvements thereon and associated easements, lying and being in the County of Ward, State of North Dakota, described as follows:

Lot One (1), Block One (1), Tollberg Shores Second Addition, Ward County, North Dakota, recorded with the Ward County Recorder on April 29, 2016 and Identified as Document Number 2996748,

(the "Property"), excepting and reserving unto Northern Lights, its successors and assigns, all oil and gas and all other minerals, in, on, or under the described land held by Northern Lights, if any, together with the right of ingress and egress at all times for the purpose of developing any of the minerals hereunder.

The terms and conditions of sale and purchase are:

1. CONSIDERATION: The consideration for this Agreement is the sum of One Dollar (\$1.00) and that from and after the date of the conveyance contemplated in this Agreement, City shall be obligated to administer, maintain and repair the Property and improvements thereon in accordance with the ordinances of the City of Minot and Ward County, and the State of North Dakota.

2. REAL ESTATE TAXES AND SPECIALS: Taxes and special assessments for the year 2018 shall be paid one hundred percent (100%) by Northern Lights and shall not be prorated. All taxes and special assessments certified to the County Treasurer for annual collection for calendar years 2017 and prior shall have been paid in full by Northern Lights.

3. CLOSING AND POSSESSION: Closing and possession of the Property shall occur promptly upon this Agreement being fully executed, and transfer of title to the Property shall be in the form of a warranty deed provided by Northern Lights to City.

4. CLOSING COSTS: Northern Lights shall pay the cost to record the warranty deed.

5. ENTIRE AGREEMENT: This Agreement, and Warranty Deed executed subsequent hereto effecting the transfer of the Property to the City, constitutes the entire agreement by and between the parties and any and all prior representations, discussions or agreements are deemed merged herein and those not specified herein do not represent any agreement of promises or covenants or representations on the part of either party hereto.

6. AMENDMENTS, MODIFICATIONS, OR WAIVERS: No amendment, modification or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound or a duly authorized representative and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default shall not affect or impair any right arising from any subsequent default.

7. BINDING EFFECT: This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.

8. GOVERNING LAW: The enforcement and interpretation of this Agreement shall be governed by North Dakota law.

9. NOTICE: Any notice, demand, or request required or permitted to be given or made under this Agreement must be made in writing unless specifically stated otherwise in this Agreement. Notice will be deemed given when delivered in person, sent via certified mail/return receipt requested, or sent by email to the Parties as specified below:

CITY OF MINOT  
c/o:  
[Address]  
[Email]

Northern Lights Property Development LLC  
c/o: Dean Anagnost  
4585 Coleman Street  
Bismarck, ND 58503-0431  
[dean.anagnost@kljeng.com](mailto:dean.anagnost@kljeng.com)

10. SEVERABILITY: If any paragraph of this Agreement or the application thereof shall, for any reason and to any extent, be found invalid or unenforceable, the invalid or unenforceable provision shall be deemed severed from the remainder of the Agreement, and the remaining paragraphs shall remain in full force and effect to the fullest extent of the law.

11. DEFAULT: In the event either Party fails to perform their obligations hereunder (except as excused by the other Party's default), the Party claiming such default must give the other party notice of the default and written demand for to cure their default. If the alleged defaulting party fails to comply with such written demand thirty (30) days after receipt thereof, the Party claiming such default may waive such default, or file an action to seek specific performance or termination of this Agreement. Any such action to interpret the terms of this agreement, seek performance of this agreement, or terminate this agreement must be filed in a District Court located in Ward County, North Dakota.

12 COUNTERPARTS: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands the day and year first above written.

NORTHERN LIGHTS PROPERTY DEVELOPMENT LLC

By: \_\_\_\_\_  
Dean Anagnost, President

CITY OF MINOT

By: \_\_\_\_\_  
\_\_\_\_\_, its \_\_\_\_\_

**WARRANTY DEED**

THIS INDENTURE, made this \_\_\_\_ day of \_\_\_\_\_, 2018, between **NORTHERN LIGHTS PROPERTY DEVELOPMENT LLC**, a limited liability company under the laws of the State of North Dakota, Grantor, and **CITY OF MINOT**, Grantee, whose post office address is 515 2nd Avenue SW, Minot, North Dakota 58702.

WITNESSETH, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, Grantor does hereby grant to the Grantee all of the following real property lying and being in the County of Ward and State of North Dakota, and described as follows, to wit:

Lot One (1), Block One (1), Tollberg Shores Second Addition, Ward County, North Dakota, recorded with the Ward County Recorder on April 29, 2018 and Identified as Document Number 2996748.

EXCEPTING AND RESERVING therefrom all oil, gas, and other minerals lying in and under and that may be produced from said premises, together with the right of ingress and egress for the purpose of exploration and development thereof.

SUBJECT TO easements and conveyances of record.

And the said Grantor for itself, its successors, and assigns, does covenant with the Grantee that it is well seized in fee of the land and premises aforesaid and has good right to sell and convey the same in the manner and form aforesaid; that the same are free from all encumbrances, except installments of special assessments or assessments for special improvements which have not been certified to the County Auditor for collection; and the above-granted lands and premises in the quiet and peaceable possession of said Grantee, against all persons lawfully claiming or to claim the whole or any part thereof, the said Grantor will warrant and defend.

WITNESS, the hand of the Grantor.

NORTHERN LIGHTS PROPERTY DEVELOPMENT LLC

By: \_\_\_\_\_  
Dean Anagnost, President

\*\*\*\*\*  
I certify that the full consideration paid for the property described in this deed is  
exempted under NDCC 11-18-02.2(6)(i).

\_\_\_\_\_  
Grantee or Agent Date  
\*\*\*\*\*

STATE OF NORTH DAKOTA             )  
  : ss.  
COUNTY OF BURLEIGH             )

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public in and for said  
County and State personally appeared Dean Anagnost, to me known to be the President of  
the Limited Liability Company that is described in and that executed the within and foregoing  
instrument and severally acknowledged to me that such Limited Liability Company executed  
the same.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public