

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF MINOT
AND THE MINOT PARK DISTRICT, FOR THE
FAMILY RECREATION ADDITION DEVELOPMENT**

THIS DEVELOPMENT AGREEMENT is made and entered into this ___day of _____, 2019, by and between the City of Minot, a municipal corporation, hereinafter the “City,” and the Minot Park District, a political subdivision organized under the laws of the State of North Dakota, hereinafter the “Developer.” City and Developer are jointly referred to herein as the “Parties.”

WHEREAS, the City may enter into a development agreement with a person having ownership or control of real property within its jurisdiction; and

WHEREAS, this Development Agreement (hereinafter the “Agreement”), relates to the development known as the Family Recreation Addition, owned by the Developer, located within the City of Minot, whose legal description is Family Recreation Addition, Lot 1(hereinafter the “Property”); and more particularly described on the attached Exhibit A; and

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

WHEREAS, the following Exhibits are attached and incorporated into this Agreement:

- a) Exhibit A - Family Recreation Addition, Lot 1 Plat
- b) Exhibit B - City of Minot Development Policy
- c) Exhibit C – Water Service Boundary; and

WHEREAS, the City Council authorized the following action:

- a) By subdivision plat, the Unplatted NW1/4 and N1/2SW1/4 of Section 16-155-83 was approved as Family Recreation Addition, Lot 1;
- b) By Ordinance No. 3608, the City amended the City’s Comprehensive Plan land use designation for the Property to Parks and Open Space;
- c) By Ordinance No. 5347, the City amended the City’s Zoning Ordinance to rezone the property to P (Public) District, subject to Planning Commission conditions, as listed in section 8 below;
- d) By Ordinance No. 5348, the City amended the City’s corporate limits to annex the property into city limits, subject to Planning Commission conditions, as listed in section 8 below;
- e) The City Council authorized the Mayor to sign this Development Agreement with the Developer; and

WHEREAS, the City is requiring the Developer to complete the following improvements as conditioned within the approval of the Family Recreation Addition, Lot 1 plat; and

NOW, THEREFORE, the Parties hereto agree and stipulate as follows:

1. Public Street and Utility Infrastructure Improvements

- a. Developer shall install, at their sole cost, the sanitary sewer, storm sewer, and water main utilities to serve the development within the Family Recreation Addition.
 - i. City of Minot water main shall serve the northeastern corner of the Property, including the future golf course/clubhouse. The exact boundary of the City of Minot water service area is shown in Exhibit C.
 - ii. The Developer shall connect to the existing 10" PVC water main in 19th Ave NW and extend it to serve their property. Within 19th Avenue NW the water main shall continue as 10". Public water main within the right-of-way must meet City Standard Specifications.
 - iii. Approval of the water service location from the 10" water main into the golf course/club house shall be part of the site plan review and approval process.
 - iv. North Prairie Rural Water shall serve the remaining portion of the Property, including the day-use park. The Developer shall make any and all arrangements with North Prairie Rural Water for this service including all costs or agreements necessary for service.
 - v. The Developer may install a temporary septic system to serve the northeast corner of the property, including the golf course/clubhouse and any associated buildings, until such time that City of Minot sanitary sewer main is constructed as a part of the development of the adjacent property located to the east and south of the clubhouse and any associated buildings. Once a City of Minot sanitary sewer main is constructed in a location to serve the Developer, the Developer shall discontinue use of the temporary septic system in accordance with local regulations and connect to the City sanitary sewer system. If the City of Minot sanitary sewer main cannot serve the clubhouse from the adjacent property east, the Developer may retain use of its temporary septic system.
 - vi. The remaining portion of the Property, including the day-use park, may be served by a permanent septic system or connection into another system outside of the City of Minot, whether now or in the future.
 - vii. The temporary septic system shall be plumbed such that a connection to City of Minot sanitary sewer may be made in the future. The future sewer connection shall be at the sole cost of the Developer.

- viii. Developer shall pay all fees due to the City for connection to City utilities prior to the issuance of a plumbing permit for the connection into the City sanitary sewer system.
 - ix. All septic systems and components (tanks, pumps, drain fields, etc.) shall be permitted through First District Health Unit.
 - b. Developer shall install, at their sole cost or in conjunction with adjacent property owners as a part of a paving district, the public street sections and street lighting to serve the development within the Family Recreation Addition. Specifically:
 - i. 19th Avenue NW from 35th Street NW west to the east property line of the Property must be improved to City urban residential street standards, if that portion of 19th Avenue is used to access the Property. If access construction is required under this provision, construction shall be completed prior to the issuing of Certificates of Occupancy for the golf course/clubhouse or the opening of the northeastern portion of the Property to the public.
 - ii. If the Developer chooses to construct an access road south of 19th Avenue NW, through private property, only the 19th Avenue/35th Street intersection shall be required to be improved as outlined above. The access roadway shall be within a permanent access easement. Developer shall be responsible for all maintenance responsibilities of the private access road.
 - iii. As additional properties adjacent to 19th Avenue NW develop, the roadway will be built to City standards, including sidewalk and lighting, via private development or through a paving district. The Developer waives their right to protest their inclusion in any future 19th Avenue NW paving district.
 - iv. The construction of 46th Street NW from 4th Avenue NW/County Rd 15 W to the north to access the Property. The street design for this segment of roadway may differ than the typical City street section due to right of way widths. A standard sidewalk is not required. A shared use path shall connect the day-use park to the existing shared use path along County Road 15 W. This must be constructed and completed prior to the opening of the day-use park to the public.
 - c. The Developer shall ensure all required public street and utility infrastructure improvements are designed and included in the plans titled “Family Recreation Area” which must be approved by the City and kept on file with the Engineering Department.
 - d. All public street and utility infrastructure must be installed and tested per the City Standard Specifications and Details by the Developer.
 - e. All public street and utility infrastructure must be inspected full time during active

construction 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.

- i. If at any time during construction the work is not being inspected by an engineering firm, the City may order the work to stop immediately until the work can be inspected. The City shall not be held responsible in any way for the work stoppage due to Developer's failure to retain an engineering firm to conduct inspections.
- f. The Developer shall warranty all public street and utility infrastructure work constructed as part of the Family Recreation Addition to be free of material and workmanship defects for a period of two years after written notice of substantial completion 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 Family Recreation Addition conforming to the City's Record Plan Policy on file with the Engineering Department. Record drawings shall be submitted 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.
 - i. 10% of the approved security shall be held by the City during the two-year warranty period. After all warranty corrections are approved by the City, the remaining security shall be released to the Developer.

2. Storm Water Management

- a. Storm Water Management Plans shall be required and must be approved by the City Engineer.
- b. Construction of the storm water management features may be phased, as approved in writing by the City Engineer.

- c. Developer is solely responsible for any necessary permits from other entities, including but not limited to the ND State Water Commission and the US Army Corps of Engineers.
- d. The development improvements must conform to all floodplain management requirements.
 - i. As part of the engineering design for the development, any modification to the boundaries of the Zone A designations on the Property must be updated through a Letter of Map Revision (LOMR).
- e. Developer will be required to operate and maintain the storm water infrastructure that is located outside the right-of-way and in dedicated easements. This includes any pipes, channels, ponds, and outlet structures.
 - i. An operation and maintenance plan must be submitted to the City for approval before Certificates of Occupancy for any building may be issued.
 - ii. Developer consents and agrees that if they do not maintain the storm water infrastructure according to the operations and maintenance plan, the City is authorized to enter the property where the infrastructure is located and perform any maintenance required. The City's cost to perform the maintenance will be billed to the Developer. The City also reserves the right to special assess the cost of maintenance against the benefitting properties.
 - iii. All critical storm water infrastructure, as determined by the City Engineer, including but not limited to channels and ponds, outside the right of way, must have an easement (storm water and access) recorded over the improvements. The easement width and location shall be approved by the City Engineer.

3. Irrigation/Storage

- a. Developer is solely responsible for all aspects of their irrigation system, water appropriation permit(s), private easements, and any other related items.
- b. Developer shall coordinate any intake from the Souris River with the Souris River Joint Board.

4. Erosion Control

- a. Erosion Control practices shall meet the requirements of the State of North Dakota and be approved by the City Engineer.

5. Traffic Operations Study at County Rd 15 W

- a. Developer shall complete traffic operations study per the City's and NDDOT applicable guidelines;
 - b. Developer's traffic operations study shall include traffic generation and distribution for lane capacity analysis, turn lane, and signal analysis;
 - c. The improvements recommended in the traffic operations study, required by the City and/or County, shall be installed before the day-use park opens to the public.
6. Driveway Access
- a. Driveway access location, width, and design ingress/egress from the northern edge of the Property off of 19th Avenue NW shall be approved by the City Engineer.
 - b. Driveway access location, width, and design ingress/egress from the southern edge of the Property off of 46th Street NW shall be approved by Harrison Township.
 - c. These approvals will be a part of the City of Minot site plan review process.
7. Maintenance of Public Right of Way and Easements
- a. Unless specific ownership is defined on the plat, all easements and public right of way dedicated with this plat shall be for public use and access.
 - b. The City shall not be responsible for any maintenance relating to the easements and public right of way associated with 46th Street NW and other areas in or around the day-use park.
8. Planning Requirements
- a. A developer's agreement with the City of Minot shall be approved, executed, and recorded prior to recording of the plat.
 - b. A storm water management plan prepared by a licensed civil engineer shall be submitted to the Minot Engineering Department for review and approval.
 - c. The site will conform to floodplain management requirements.
 - d. Sidewalks will be required along urbanized road sections to City specifications.
 - e. Connection fees for access to City utilities are required to be paid.
 - f. A traffic impact study is required.
 - g. Access to County Road 15 and any required roadway improvements shall be determined by the Ward County Engineer.

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.

On this ____ day of _____, 2019, before me personally appeared _____,
known to me to be the person who is described in, and who executed the within and foregoing
instrument and who acknowledged to me that he executed the same.

(seal)

Notary Public, _____ County,
North Dakota.
My Commission Expires: _____