

**DEVELOPMENT AGREEMENT  
BY AND BETWEEN THE CITY OF MINOT  
AND TERRY DAVIS, FOR THE  
RETRIEVER RIDGE SUBDIVISION DEVELOPMENT**

THIS DEVELOPMENT AGREEMENT is made and entered into this \_\_\_day of \_\_\_\_\_, 2020, by and between the City of Minot, a municipal corporation, hereinafter the “City,” and Terry Davis and Anne Davis, husband and wife, 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 Retriever Ridge Subdivision, owned by the Developer, and located within the City of Minot’s two-mile extraterritorial jurisdiction, whose legal description is Retriever Ridge Subdivision, Lots 1-4 (hereinafter the “Property”); 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 - City of Minot Development Policy; and

WHEREAS, the City Council authorized the following action:

- a) By Ordinance No. 5409, the City approved a rezone from Agricultural to Agricultural Residential, subject to Planning Commission conditions, as listed in section 4 below;
- b) 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 Retriever Ridge Subdivision 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 storm sewer utilities to serve the Retriever Ridge Subdivision development.
  - i. Developer shall install storm water utility infrastructure as required in the City’s adopted Storm Sewer Design Standards Manual. The infrastructure shall include all manholes, pipes, inlets, culverts, etc. as required by the Storm Water Management Plan.
- b. Developer shall install, at their sole cost, the public street sections to serve the

Property. Specifically:

- i. 11<sup>th</sup> Street NE from 64<sup>th</sup> Avenue NE to the north property line of the Retriever Ridge Subdivision must be built to township standards.
- c. The Developer shall ensure all required public street and utility infrastructure improvements are designed and included in the plans titled “Retriever Ridge Subdivision”, 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 Retriever Ridge Subdivision development 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 any and all costs associated with 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 Retriever Ridge Subdivision development 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 irrevocable letter of credit or performance bond, and shall be submitted in a form acceptable to the City

Attorney.

- i. This security is required prior to the approval of the “Retriever Ridge Subdivision” plans and prior to commencing any work within the public right-of-way.
- ii. 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. The development improvements must conform to all floodplain management requirements.
- c. 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. Erosion Control

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

4. Planning Requirements

- a. Storm Water Management Plan required.
- b. Developer agreement required before the plat can be recorded.
- c. 11th St NE must be built to township standards from 64th Avenue to the north property line of the plat.

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.

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.

Neither this Agreement nor any item hereof may be changed, waived, discharged, or terminated orally, but only by instrument in writing, signed by both Parties hereto.

If a Court finds any part of this Agreement to be invalid, the remainder of this Agreement 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.

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 property 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: \_\_\_\_\_  
Shaun Sipma, Mayor

Attest: \_\_\_\_\_  
Kelly Matalka, City Clerk

TERRY DAVIS

ANNE DAVIS

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NORTH DAKOTA      )  
  ) ss  
COUNTY OF \_\_\_\_\_     )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, 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: \_\_\_\_\_

STATE OF NORTH DAKOTA      )  
  ) ss  
COUNTY OF \_\_\_\_\_     )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me personally appeared \_\_\_\_\_,  
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(seal)

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\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County,  
North Dakota.  
My Commission Expires: \_\_\_\_\_