

2H. Consideration to approve an assignment of the Featherstone 6th Addition Development Contract to Novak Fleck, Inc.

Prepared by: Community Development Director	Meeting Date: 06/27/2022	<input checked="" type="checkbox"/> Consent Agenda Item <input type="checkbox"/> Regular Agenda Item
Reviewed by: Project Engineer, City Engineer/Public Works Director	Approved by: City Administrator	

ACTION REQUESTED

Motion to approve assignment of the Development Contract for Featherstone 6th Addition from Gold Nugget Development to Novak-Fleck Inc.

PREVIOUS COUNCIL ACTION

April 25, 2022: City Council approval of Featherstone 6th Addition final plat and development agreement

REFERENCE AND BACKGROUND

Gold Nugget Development requested that the City authorize an assignment of the Development Contract for Featherstone 6th Addition to Novak Fleck, Inc.

With completion of recording the development agreement and final plat, current property owner Gold Nugget Development intends to sell the 6th Addition platted lots to Novak Fleck. Novak Fleck has owned property and constructed units within the Featherstone 1st-5th Additions.

The assignment action is consistent with those previously approved for Featherstone 3rd, 4th and 5th Additions.

Per the assignment prepared, Novak Fleck is obligated to the same conditions and terms of the original development contract approved for Featherstone 6th Addition. No amendment to the contract has been proposed. Novak Fleck will be required to provide an updated certificate of insurance for the development of the project. Cash securities for the project were previously provided by Novak Fleck.

The development contract for Featherstone 6th Addition trunk utility construction, which was a separate development contract with Gold Nugget will remain with Gold Nugget through warranty period and is not requested to be assigned.

- I. **Budget Impact:** None. Costs for review of the assignment are paid by the developer's escrow.
- II. **Staff Workload Impact:** Review and preparation of the assignment agreement and report total approximately two hours, including time spent by the City Attorney.
- III. **Comprehensive Plan:** The assignment does not impact the single-family residential use within the plat, which remains consistent with the Monticello 2040 Vision + Plan.

STAFF RECOMMENDED ACTION

City staff recommends approval of the assignment. All rights and obligations per the original contract remain in place. The Gold Nugget and Novak-Fleck relationship has been consistent throughout the planning and development of Featherstone since its initiation.

SUPPORTING DATA

- A. Assignment of Development Contract, Featherstone 6th Addition
- B. Letter of Request

(reserved for recording information)

ASSIGNMENT OF DEVELOPMENT CONTRACT

ASSIGNMENT dated June 27th, 2022, by, between, and among the **CITY OF MONTICELLO**, a Minnesota municipal corporation (“City”); **GOLD NUGGET DEVELOPMENT INC.**, a Minnesota corporation (“Developer”); and **NOVAK-FLECK INCORPORATED**, whose registered office address is 8857 Zealand Avenue North, Brooklyn Park, Minnesota 55445-1895 (“Successor Developer”).

RECITALS

A. The City and Developer previously entered into a Development Contract and Planned Unit Development Agreement dated April 25th, 2022 and filed of record on May 31, 2022, with the Wright County Recorder as Document Number A1508460 concerning the plat of **FEATHERSTONE SIXTH ADDITION** (“Development Contract”).

B. The Developer has asked the City to approve the assignment of its rights and obligations under the Development Contract to the Successor Developer.

NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

1. ASSIGNMENT. The Developer’s rights and obligations under the Development Contract are assigned to the Successor Developer subject to the terms, covenants and conditions of this Assignment. The Successor Developer accepts the assignment and agrees to be bound by its terms and assumes all of the obligations of the Developer under the Development Contract dated April 25th, 2022 and recorded May 31, 2022 as Wright County Document Number A1508460.

2. EFFECTIVE DATE OF ASSIGNMENT. This Assignment shall be effective when the Successor Developer furnishes the City any and all security required by the Development Contract.

3. BINDING EFFECT/RECORDING. This Assignment will be recorded against the title to the land described on Exhibit "A" attached hereto and is binding upon the parties, their successors, heirs, and assigns.

*[The remainder of this page has been intentionally left blank.
Signature pages follow.]*

DEVELOPER:
GOLD NUGGET DEVELOPMENT INC.

By: _____
Wayne Fleck, President

STATE OF MINNESOTA)
(ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by **Wayne Fleck**, the President of **Gold Nugget Development Inc.**, a Minnesota corporation, on behalf of said entity.

Notary Public

SUCCESSOR DEVELOPER:
NOVAK-FLECK INCORPORATED

By: _____
Rick Novak, President

STATE OF MINNESOTA)
(ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by **Rick Novak**, the President of **Novak-Fleck Incorporated**, a Minnesota corporation, on behalf of said entity.

Notary Public

DRAFTED BY:
CAMPBELL KNUTSON, P.A.
Grand Oak Office Center I
860 Blue Gentian Road, Suite 290
Eagan, Minnesota 55121
Telephone: (651) 452-5000
JJJ

EXHIBIT "A"
to
ASSIGNMENT OF
DEVELOPMENT AGREEMENT

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, Block 1, Featherstone Sixth Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

Lots 1, 2, 3, 4, 5, 6, and 7, Block 2, Featherstone Sixth Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

Lots 1, 2, and 3, Block 3, Featherstone Sixth Addition, according to the recorded plat thereof, Hennepin County, Minnesota.

(abstract)

From: [Horst Graser](#)
To: [Angela Schumann](#)
Subject: Featherstone 6th Add. reassignment of 21 lot development contract
Date: Monday, June 13, 2022 10:09:41 AM

Dear Ms. Schumann

Please accept this email as a formal petition to assign the above referenced development contract from Gold Nugget Development Inc. to Novak-Fleck Inc. Rick Novak, president of Novak-Fleck In. has purchased the 21 lot Featherstone 6th Add. Mr. Novak feels strongly that construction control of the improvements will provide security for his investment. The development contracts for Featherstone 4th and 5th additions were assigned to Novak-Fleck as well, after initially being developed by Gold Nugget Dev. Inc. Thank you for your anticipated help in this matter.

Respectfully,
Wayne Fleck,
President, Gold Nugget Development Inc.