

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
AUGUST 18, 2009 AGENDA**

| Subject: | Type: | Submitted By: |
|---|---|--|
| AMENDMENT TO RESIDENTIAL SUBDIVISION AGREEMENT — GILES CORNER | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR |

SYNOPSIS

A resolution has been prepared to authorize the execution of an Amendment to the Residential Subdivision Agreement, satisfactory in form to the City Administrator and City Attorney, for Giles Corner, generally located northwest of 72nd & Giles Road.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

On August 5, 1997 the City Council adopted Resolution No. 97-101 establishing the city's subdivision financing policy regarding public funding of improvements and other costs within or serving residential subdivisions, including both residential and commercial development within the zoning jurisdiction of the City of La Vista.

This particular amendment is proposed to allow the SID to construct the ADA sidewalk ramps at all intersections. The current agreement would require the individual property owners to construct the ramps at the time of their sidewalk installation, which does not assure uniform construction.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN AMENDMENT TO THE RESIDENTIAL SUBDIVISION AGREEMENT FOR GILES CORNER IN A FORM SATISFACTORY TO THE CITY ADMINISTRATOR AND CITY ATTORNEY.

WHEREAS, the City Council did on December 2, 2003, approve the Residential Subdivision Agreement for Giles Corner; and

WHEREAS, the City has proposed an amendment to allow the District to construct ADA sidewalk ramps at all street intersections.

NOW THEREFORE, BE IT RESOLVED, that an Amendment to the Residential Subdivision Agreement presented at the August 18, 2009, City Council meeting for Giles Corner be, and hereby is approved, and the Mayor and City Clerk be and hereby are, authorized to execute same on behalf of the City with such revisions or amendments thereto that the City Administrator and City Attorney may determine necessary to carry out the intent of the City Council.

PASSED AND APPROVED THIS 18TH DAY OF AUGUST 2009.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

**LAUGHLIN, PETERSON & LANG
ATTORNEYS AT LAW
11718 NICHOLAS STREET, SUITE 101
OMAHA, NE 68154
(402) 330-1900
FAX (402) 330-0936**

July 31, 2009

Ann Birch
Community Development Director
8116 Park View Boulevard
LaVista, NE 68128

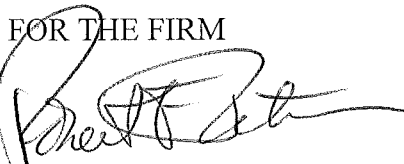
Re: SID 239

Dear Ms. Birch:

I am enclosing two originals of the Amendment to Residential Subdivision Agreement for Sanitary & Improvement District No. 239 – Giles Corner. This has been signed by Giles Corner, Inc., the developer, the Sanitary & Improvement District and the Homeowners' Association. Please let me know if this is approved and I will complete the conveyance of the lots from the Homeowners' Association to the District and proceed with the construction of the curb ramps.

Very truly yours,

FOR THE FIRM



Robert F. Peterson

RFP/jm

Enclosure

cc: Marvin Zuroski

AMENDMENT TO RESIDENTIAL SUBDIVISION AGREEMENT

**Giles Corner Subdivision
PUD-1 Planned Unit Development**

THIS AMENDMENT to the Subdivision Agreement, made this ____ day of _____, 2009, by and between GILES CORNER, INC., a Nebraska corporation (hereinafter referred to as "Developer"), SANITARY AND IMPROVEMENT DISTRICT NO 239 OF SARPY COUNTY, NEBRASKA (hereinafter referred to as "District"), GILES CORNER HOMEOWNERS' ASSOCIATION, INC. (Homeowners' Association), and the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City");

WITNESSETH

WHEREAS, Developer, District and the City entered into a Subdivision Agreement on December 2, 2003, for Giles Corner which is generally located at 72nd & Giles Road in Sarpy County, Nebraska, as described on Exhibit "A"; and

WHEREAS, The Subdivision Agreement provided for the construction of "Authorized Public Improvements"; and

WHEREAS, The parties wish to add the installation of ADA Sidewalk Ramps to all Street Intersections; and

WHEREAS, The parties wish to agree upon the manner and the extent to which public funds may be expended in connection with installation of the ADA Sidewalk Ramps; and

WHEREAS, The Subdivision Agreement further provided for the ownership and maintenance of Outlots A, B, C, and E which provided for the ownership and maintenance of said Outlots by the Homeowners' Association; and

WHEREAS, The parties wish to modify the ownership and maintenance obligations to provide that such ownership and maintenance shall be in the District.

NOW, THEREFORE, IT IS AGREED THAT THE SUBDIVISION AGREEMENT IS AMENDED as follows:

2. Additional Authorized Public Improvements

Developer, District and City agree that the District may construct or install, or cause to be constructed or installed, and the credit of District shall be used for the installation of ADA sidewalk ramps at all street intersections as shown on attached exhibit at a construction estimate cost of \$17,195.00 and a total estimated cost, including all soft costs, of \$24,100.00. The costs may be a general obligation of the District

K. Sidewalks. This section of the Subdivision Agreement is hereby amended to allow the installation of the ADA Sidewalk ramps. Plans and specifications shall be approved prior to construction according to Section 11 of the Subdivision Agreement.

10. Outlots A, B, C, and E

It is agreed that the ownership of Outlots A, B, C, and E shall be transferred to the District by the Homeowners' Association at no cost to the District which shall thereafter perform the ongoing maintenance of Outlots A, B, C, and E. The required maintenance of said Outlots shall be as set forth in section 10 of the Subdivision Agreement so as to maintain compliance with the 404 Permit and the proper function of the storm water retention plans.

In all other respects, the Subdivision Agreement remains in full force and effect.

IN WITNESS WHEREOF, we the parties hereto, by our respective duly authorized agents hereto affix our signatures the day and year first above written.

ATTEST:

GILES CORNER, INC.

By Melvin J. Sudbeck
Melvin J. Sudbeck, President

ATTEST:

SANITARY AND IMPROVEMENT
DISTRICT NO. 239 OF SARPY COUNTY,
NEBRASKA

Dan H. H. H.
Clerk of Said District

By Martin J. General
Chair of the Board of Trustees

ATTEST:

GILES CORNER HOMEOWNERS'
ASSOCIATION, INC.

Alan C. Bolas
_____, Title

By President

Title

ATTEST:

CITY OF LA VISTA

City Clerk

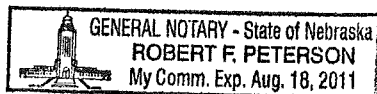
By _____, Mayor

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Sarpy)

On this 31st day of July, 2009, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Melvin J. Sudbeck, personally known by me to be the President of Giles Corner, Inc. and the identical person whose name is affixed to the foregoing Amendment to Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

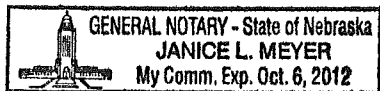


[Signature]
Notary Public

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 21 day of July, 2009, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Marvin Zuroski, personally known by me to be the Chairman of Sanitary and Improvement District No. 239 of Sarpy County, Nebraska, and the identical person whose name is affixed to the foregoing Amendment to Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

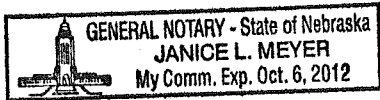


[Signature]
Notary Public

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 21 day of July, 2009, before me a Notary Public, duly
commissioned and qualified in and for said County, appeared
Alan Bokas, personally known by me to be the President
of Giles Corner Homeowners' Association, Inc. and the identical person whose name is
affixed to the foregoing Amendment to Subdivision Agreement, and acknowledged the
execution thereof to be his/her voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.



Janice L. Meyer
Notary Public

STATE OF NEBRASKA)
COUNTY OF _____)

On this ____ day of _____, 2009, before me a Notary Public, duly
commissioned and qualified in and for said County, appeared _____, personally
known by me to be the Mayor of the City of La Vista and the identical person whose
name is affixed to the foregoing Amendment to Subdivision Agreement, and
acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.
