

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
NOVEMBER 19, 2013 AGENDA**

Subject:	Type:	Submitted By:
FIRST AMENDMENT TO RESIDENTIAL SUBDIVISION AGREEMENT — CIMARRON WOODS REPLAT TWO	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A resolution has been prepared to authorize the execution of the First Amendment to the Residential Subdivision Agreement for the Cimarron Woods Replat Two Subdivision, satisfactory in form to the City Administrator and City Attorney, generally located southwest of 96th & Harrison Street.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

Since the adoption of the Cimarron Woods Replat Two subdivision agreement, the status of several issues now requires an amendment to the subdivision agreement to address these changes. For the past several months the City Engineer, John Kottmann, has been working with the SID Engineer, Mark Westergard, to modify the subdivision agreement as noted below.

1. The trail connection from the park through the Cimarron Terrace apartments: Due to wetlands issues and coordination with the next phase of the apartments, an amendment is proposed to revise the trail route and timing of the construction.
2. Purchase of Lot 285, Cimarron Woods: With the opening of the splash pad in Cimarron Woods Park the City has discussed the need for the SID to acquire the vacant lot on the northeast corner of 101st Avenue and Cimarron Woods Drive to be used as additional parking if needed in the future.
3. Maintenance of Outlot F and G: The City Engineer identified erosion repair and stabilization work that needed to be done in Outlot G and contacted the SID Engineer. It was noted in the subdivision agreement that maintenance of Outlots F and G is the responsibility of the Cimarron Woods East Homeowners Association however the organization is not active. These outlots are owned by the SID and because there is public storm sewer runoff being conveyed through the outlots, the City Engineer agreed the SID should be allowed to undertake the stabilization work as an SID expense.

The City Attorney has reviewed the documents; they have now been signed by representatives of the SID and the developers.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE EXECUTION OF THE FIRST AMENDMENT TO THE RESIDENTIAL SUBDIVISION AGREEMENT FOR THE CIMARRON WOODS REPLAT TWO SUBDIVISION.

WHEREAS, since the adoption of the Cimarron Woods Replat Two subdivision agreement, issues require an amendment to the subdivision agreement to address these changes; and

WHEREAS, for the past several months the City Engineer has been working with the SID Engineer to modify the subdivision agreement as noted below:

1. Trail connection from the park through the Cimarron Terrace apartments: Due to wetlands issues and coordination with the next phase of the apartment complex construction, an amendment is proposed to revise the trail route and timing of the construction.
2. Purchase of Lot 285, Cimarron Woods: With the opening of the splash pad in Cimarron Woods Park the City has discussed the need for the SID to acquire the vacant lot on the northeast corner of 101st Avenue and Cimarron Woods Drive to be used to accommodate additional parking demand, if needed, in the future.
3. Maintenance of Outlot F and G: The City Engineer identified erosion repair and stabilization work that needed to be done in Outlot G and contacted the SID Engineer. It was noted in the subdivision agreement that maintenance of Outlots F and G is the responsibility of the Cimarron Woods East Homeowners Association, however the organization is not active. These outlots are owned by the SID and because there is public storm sewer runoff being conveyed through the outlots, the City Engineer agreed the SID should be allowed to undertake the stabilization work as an SID expense;

WHEREAS, the City Attorney has reviewed the documents; they have been signed by representatives of the SID and the developers;

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council have approved the execution of the First Amendment to the Residential Subdivision Agreement for the Cimarron Woods Replat Two Subdivision, subject to such revisions that the City Administrator or City Engineer may determine necessary or advisable.

PASSED AND APPROVED THIS 19TH DAY OF NOVEMBER, 2013.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

Sarpy County, Nebraska



Parcel ID Number	011581797	Property Type	N/A
Owner Name	SID # 237	Improvements Value	\$0
Mailing Address	11440 W CENTER RD	Land Value	\$23,500
City State	OMAHA NE	Total Value	\$23,500
Zip Code	68144-	Estimated Acres	0.26494126
Property Address	7433 S 101ST AVE	Tax District	27128
Legal Description	LOT 285 CIMARRON WOODS	Snow Ordinance	County #3-1-01
Neighborhood Code	LCW		

Disclaimer: This data is for informational purposes only, and should not be substituted for a true titles search, property appraisal, survey, or for zoning district verification. Sarpy County and the Sarpy County GIS Coalition assume no legal responsibility for the information contained in this data.

Map Scale
1 inch = 144 feet

11/7/2013

FIRST AMENDMENT TO RESIDENTIAL SUBDIVISION AGREEMENT

Cimarron Woods Replat Two Subdivision

99th & Harrison

R-3, High Density Residential PUD-1

THIS First Amendment to the Subdivision Agreement, made this _____ day of _____, 2013, by and between PEDCOR INVESTMENTS, A LIMITED LIABILITY COMPANY, a Wyoming limited liability company, authorized to do business in Nebraska("Pedcor Investments"), PEDCOR INVESTMENTS-2008-CXVIII, L.P., an Indiana limited partnership, authorized to do business in Nebraska("Pedcor Investments 2008") (herein Pedcor Investments and Pedcor Investments 2008 shall be referred to as "Subdivider"), TORCO DEVELOPMENT, INC., a Nebraska corporation, (hereinafter referred to as "Developer"), and SANITARY AND IMPROVEMENT DISTRICT NO. 237 OF SARPY COUNTY, NEBRASKA (hereinafter referred to as "District"), and the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City");

WITNESSETH:

WHEREAS, Subdivider, Developer, District and the City entered into a Subdivision Agreement on October 19, 2010, for Cimarron Woods Replat Two which is generally located southwest of 96th & Harrison Streets(herein "Subdivision Agreement") ; and,

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

WHEREAS, The parties wish to modify the location and construction schedule for a portion of the concrete trail improvements, revise the necessity for certain trail appurtenances(stairway), authorize the purchase of additional park land for auxiliary parking area and modify the responsibilities for maintenance of certain Outlots; and,

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

I. The first paragraph of Article 2, Section H of the Subdivision Agreement is hereby deleted and shall be replaced with the following paragraph:

"H. Trail Plans. The District shall cause the installation of the trail and other improvements, as shown on Exhibit "G" attached hereto and incorporated herein by this reference (Revised Trail Improvements"). Segment I of the trail as shown on Exhibit "G" has been constructed. Segment II of the trail as shown on Exhibit "G" shall be constructed within 12 months after the issuance of the first Certificate of Occupancy for any building permit issued on Lot 2, Cimarron Woods Replat Three after the execution date of this First Amendment to the Subdivision Agreement but no later than three (3) years after said execution date. The costs of Segment I and Segment II of the "Revised Trail Improvements" may be a "General Obligation" expense of the District; provided, however that the Subdivider shall in no event be liable for any portion of construction or related soft costs associated with the District's construction of the "Revised Trail Improvements". The Subdivider shall provide to the District any temporary and permanent easements within the Subdivision as necessary to complete the installation of the "Revised Trail Improvements" as shown on Exhibit "G" at no cost to the District.

II. Purchase of Lot 285, Cimarron Woods for Auxiliary Parking or Other Park Purposes. It has been determined that additional parking may be necessary at times to provide patron parking for the splash park facility. The District is hereby authorized to purchase said Lot 285 at the appraised price as determined by a Qualified Appraiser satisfactory to the City Engineer, and otherwise in accordance with the Right of First Refusal and Purchase Option Agreement between Developer and District dated February 25, 2011.

III. Outlot F and Outlot G, Cimarron Woods Maintenance. District is hereby authorized to provide and pay for storm water runoff maintenance of said Outlots F and G including but not limited to preservation of drainage capacity and erosion repair, provided District before performing any such work shall obtain any required approval of the party having an interest in Outlot F or G.

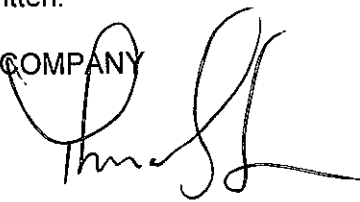
IV. Removal of Trail Stairs. District is hereby authorized to remove existing trail steps between Lots 297 and 298 upon completion of Segment II of the trail. Segment II is identified in Exhibit "G". The location of the existing trail steps is shown on Exhibit "G".

Except as expressly modified by this Agreement, all terms and conditions of the Subdivision Agreement remain 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.


PEDCOR INVESTMENTS, A LIMITED LIABILITY COMPANY

Dated: 6/10/13

By: 
Thomas G. Crowe, Executive Vice President

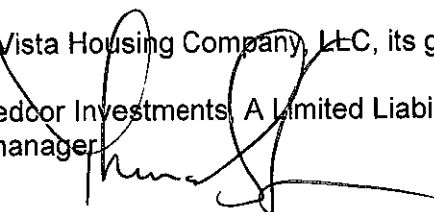
TORCO DEVELOPMENT, INC.

Dated: 9/6/13

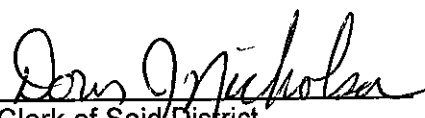
By: 
Gerald L. Torczon, President

PEDCOR INVESTMENTS-2008-CXVIII, L.P.

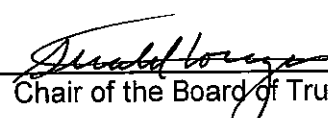
Dated: 6/10/13

By: LaVista Housing Company, LLC, its general partner
By: Pedcor Investments, A Limited Liability Company, its manager
By: 
Thomas G. Crowe, Executive Vice President

ATTEST:


Clerk of Said District

SANITARY AND IMPROVEMENT DISTRICT NO. 237
OF SARPY COUNTY, NEBRASKA

By: 
Chair of the Board of Trustees

ATTEST:

Pamela A. Buehe, City Clerk

CITY OF LA VISTA

By: Douglas Kindig, Mayor

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 6th day of September, 2013, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Gerald L. Torczon, personally known by me to be the President of Torco Development, 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 and the voluntary act and deed of his corporation.

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



Leslie Pierce
Notary Public

ACKNOWLEDGMENT OF NOTARY

STATE OF INDIANA)
COUNTY OF HAMILTON)

On this 10th day of June, 2013, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Thomas G. Crowe, personally known by me to be the Executive Vice President of Pedcor Investments, A Limited Liability Company 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 and the voluntary act and deed of his company.

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

Karen Dillon Roth
Notary Public



ACKNOWLEDGMENT OF NOTARY

STATE OF INDIANA)
COUNTY OF HAMILTON)

On this 10th day of June, 2013, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Thomas G. Crowe, personally known by me to be the Executive Vice President of Pedcor Investments, A Limited Liability Company, the manager of LaVista Housing Company, LLC, the general partner of Pedcor Investments-2008-CXVIII, L.P. 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 and the voluntary act and deed of said partnership.

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

Karen Dillon Roth
Notary Public

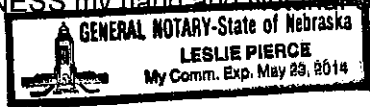


ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 10th day of September, 2013, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Gerald Turzon, personally known by me to be the Chair of the Board of Trustees of Sanitary and Improvement District No. 237 of Sarpy County, Nebraska, and _____, to me personally known to be the Clerk of the Board of Trustees of Sanitary and Improvement District No. 237 of Sarpy County, Nebraska, the identical persons whose names are affixed to the foregoing Amendment to Subdivision Agreement, and they acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of said Sanitary and Improvement District No. 237.

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



Leslie Pierce
Notary Public

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF _____)

On this _____ day of _____, 2013, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Douglas Kindig, personally known by me to be the Mayor of the City of La Vista and Pamela A. Buethe, to me personally known to be the City Clerk of the City of La Vista, the identical persons whose names are affixed to the foregoing Amendment to Subdivision Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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

Notary Public

