

**RESOLUTION NO. 2018-46**

**A RESOLUTION APPROVING AMENDED TUFFERN BLUE ESTATES SUBDIVISION AGREEMENT.**

WHEREAS, the City Council, on June 21, 2016, approved the “Tuffern Blue Estates Subdivision Agreement,” the same being filed against the property on February 2, 2017, #170127; and

WHEREAS, the Subdividers therein, Todd and Cheryl Luedeke, wish to amend said Subdivision Agreement to delete Subparagraph B of Section 1 therein, which prohibits private wells for potable water everywhere within the boundaries of the Tuffern Blue Estates Subdivision.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Wayne, Nebraska, that the attached Amended Subdivision Agreement for Tuffern Blue Estates is hereby approved, as amended, and the Mayor is authorized and directed to execute said document.

PASSED AND APPROVED this 21<sup>st</sup> day of August, 2018.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

**TUFFERN BLUE ESTATES**  
**AMENDED SUBDIVISION AGREEMENT**

THIS AGREEMENT, made and entered into this 21<sup>st</sup> day of August, 2018, by and between Todd Luedeke and Cheryl Luedeke, husband and wife, (hereinafter referred to as "Subdivider"), the CITY OF WAYNE, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City"), and the COUNTY OF WAYNE, NEBRASKA, a political subdivision, (hereinafter referred to as "County")

**WITNESSETH**

WHEREAS, Subdivider is the owner of the land included within the proposed plat attached hereto as Exhibit "A", commonly known as TUFFERN BLUE ESTATES, (hereinafter referred to as the "Area to be Developed") is within the City's zoning and platting jurisdiction; and

WHEREAS, the Subdivider requires public improvements in the area to be developed; and

WHEREAS, the Subdivider desires to have the area to be developed within the City's zoning and platting jurisdiction; and

WHEREAS, the Subdivider wishes to connect the water main system within the area to be developed to the water system of the City; and

WHEREAS, the parties wish to agree upon the manner and the extent to which any public funds may be expended in connection with public improvements to be constructed within the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of same may be specially assessed.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

For the purposes of this Agreement, the following words and phrases shall have the following meanings:

- A. The "cost" or "entire cost" of a type of public improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs, financing costs and miscellaneous costs. In this connection, financing costs shall include all financing fees and bond fees and financing to date of levy of special assessments. The date of any levy of special assessments shall mean within six (6) months after acceptance of the improvement by the City.
- B. "Property benefited" in the event of the creation of any improvement district, shall mean property within the Subdivider's subdivision (Exhibit "A") which constitutes building sites.
- C. "District" shall mean an improvement district formed by action of the Wayne City Council for the purpose of designing, financing and constructing public improvements for the subdivision.

## SECTION I

Subdivider, City and County covenant that any water main and sanitary sewer main improvements installed by the Subdivider will be constructed to Nebraska Department of Health and Human Services and Nebraska Department of Environmental Quality standards and City standards and dedicated to the City water utility and/or the City sewer utility for maintenance.

Subdivider and City and County covenant that public improvements installed by any extension or paving district created by the City or the County may be installed and provided as set forth herein.

- A. Water distribution mains, hydrants and valves constructed within easements or street right-of ways per plat (Exhibit "A") will be provided by Subdivider. If any utility extension district is to be created, it will be responsible for the design, financing and construction of said water distribution improvements. The entire cost of the water distribution improvements shall be specially assessed to the property benefited.

~~B. Private wells for potable water are prohibited everywhere within the boundaries of the Tuffern Blue Estates Subdivision.~~

- C. Subdivider agrees to pay \$5,000 to the City of Wayne Water Utility to connect the Subdivision to the City water system, for the purpose of defraying 1/10<sup>th</sup> of the \$50,000 of "pioneering investment" contributed by the City of Wayne water utility to the Muhs' Acres Water Extension District to defray the cost of the water transmission line across the undeveloped land between the east boundary of the Muhs' Acres extension district and the connection at City Well #6.
- D. Underground electrical service to each buildable lot within the subdivision shall be provided by the Subdivider, unless the subdivision is annexed.
- E. Street lighting for public or private streets dedicated per plat (Exhibit "A") shall be provided by the Subdivider.
- F. Grading for the subdivision shall be completed by the Subdivider at the Subdivider's expense.
- G. In lieu of the dedication of green space area to the City, Subdivider agrees to pay the optional Park Fee for Tuffern Blue Estates rural subdivision calculated to be \$900, as required to satisfy the City park ordinance requirements for new residential subdivisions.

## SECTION II

Subdivider and City covenant and agree that any utility or paving district created by the City or County will:

- A. Abide by and incorporate into all of its construction contracts the provisions required by the regulations of the City or the County pertaining to construction of public improvements in subdivisions and testing procedures therefore except as otherwise provided in this agreement.

- B. Except as may otherwise be mutually agreed to by the City or County and the Subdivider, any of said publically created Water or Paving Districts' levy of special assessments shall be made in such a manner so as to assure that the entire burden of the levy is borne, on an equitable basis, by lots or parcels.
  
- C. The District's engineer shall provide the following information to the Subdivider and the City or County at least 20 days prior to the meeting of the City Council or County Commissioners held to propose the levy of special assessments:
  - (1) A detailed schedule of the proposed special assessment and/or the amount of general obligation costs of any improvement or acquisition.
  
  - (2) A plat of the area to be assessed.
  
  - (3) A full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:
    - (a) The amount paid to the contractor.
  
    - (b) A special itemization of all other costs of the project, including but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, including, but not limited to, interest on all warrants to date of levy of special assessments, estimated fiscal agent's fees and bond fees.
  
    - (c) A special itemization of all costs of the District not itemized in (a) and (b) above.
  
- D. The City and County agree to not unreasonably delay acceptance of an improvement and that City or County shall levy special assessments within six (6) months after acceptance of the improvement(s).

### **SECTION III**

- A. No separate administrative entity nor joint venture, among the parties, is deemed created by virtue of the Subdivision Agreement.
  
- B. The administration of this Subdivision Agreement shall be through the offices of the undersigned officers for their respective entities.
  
- C. Binding Effect. This Subdivision Agreement shall be binding upon the parties, their respective successors and assigns.

**IN WITNESS WHEREOF**, we, the executing parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year first above written.

ATTEST:

CITY OF WAYNE

\_\_\_\_\_

\_\_\_\_\_

CITY CLERK

MAYOR

Date

ATTEST:

SUBDIVIDER

\_\_\_\_\_

\_\_\_\_\_

TODD LUEDEKE

Date

ATTEST:

SUBDIVIDER

\_\_\_\_\_

\_\_\_\_\_

CHERYL LUEDEKE

Date

ATTEST:

COUNTY OF WAYNE, NEBRASKA

\_\_\_\_\_

\_\_\_\_\_

CHAIR

Date

STATE OF NEBRASKA

COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Todd Luedeke, Subdivider, who is personally know by me to be the identical person whose name is affixed to the 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.

\_\_\_\_\_

Notary Public

STATE OF NEBRASKA

COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Cheryl Luedeke, Subdivider, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be her voluntary act and deed.

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

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA

COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public, duly commissioned and qualified in and for said County, appeared Jill Brodersen, Mayor of the City of Wayne, Nebraska, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be her voluntary at and deed as such officer of said corporation.

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

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA

COUNTY OF WAYNE

On this \_\_\_\_ day of \_\_\_\_\_, 2018, before me a Notary Public, duly commissioned and qualified in and for said County, appeared James Rabe, Chair of the Wayne County Commissioners, County of Wayne, Nebraska, who is personally know by me to be the identical person whose name is affixed to the Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed as such officer of said corporation.

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

\_\_\_\_\_  
Notary Public

