

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MARCH 20, 2007 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
APPROVAL OF PARK LAND ACQUISITION BY SID 276 – PORTAL RIDGE	♦ RESOLUTION ORDINANCE RECEIVE/FILE	BRENDA GUNN CITY ADMINISTRATOR

**SYNOPSIS**

A resolution has been prepared approving the conveyance of property for park land from the Developer Portal Ridge LLC to SID 276 – Portal Ridge.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval.

**BACKGROUND**

On October 11, 2006 the City Council approved the subdivision agreement for Portal Ridge, generally located south of 101<sup>st</sup> and Giles Road.

The Subdivision agreement allows the District to purchase park land of 2.329 acres at a cost of \$37,500/acre plus soft costs up to 20% limited only to the financing costs incurred in the purchase. The item has been placed on the agenda for consideration by the Council to give approval for the conveyance of this property subject to fulfillment of items addressed by the City Engineer and City Attorney.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING APPROVAL FOR THE PURCHASE OF 2.329 ACRES OF PARK LAND BY SANITARY AND IMPROVEMENT DISTRICT NO. 276 FROM PORTAL RIDGE LLC IN ACCORDANCE WITH TERMS OF THE SUBDIVISION AGREEMENT BETWEEN SANITARY AND IMPROVEMENT DISTRICT NO. 276 OF SARPY COUNTY AND THE CITY OF LA VISTA NEBRASKA.

WHEREAS, Sanitary and Improvement District No. 276 of Sarpy County ("District"), Portal Ridge and the City of La Vista ("City") entered into a Subdivision Agreement concerning development of lands, locally known as Portal Ridge, within the zoning jurisdiction of the City ("Subdivision Agreement") on October 11, 2006; and

WHEREAS, the District has presented to City for approval a request to purchase land from Portal Ridge Development, LLC for park land acquisition; and

WHEREAS, said request is generally consistent with the subdivision agreement, subject to compliance with the comments of the City Engineer and City Attorney; and

WHEREAS, the City Engineer and City Attorney, have been presented the request and recommend approval subject to resolution of the following items:

1. The description of what is proposed for purchase shall be corrected to read Outlots A, B, C, and E.
2. Further information shall be provided to identify that the soft costs included in the 20% are limited to only the financing costs as allowed per Section 22(B) of the subdivision agreement.
3. There must be an ALTA Survey of the properties to be acquired and such ALTA Survey must be reviewed and approved by the City as per Section 22(B) of the subdivision agreement.
4. The Developer shall present to City for City's review and approval the proposed form of deed of conveyance and title policy in advance of closing.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, does hereby approve the purchase of park land by SID 276, subject to resolution of the items identified by the City Engineer and City Attorney.

BE IT FURTHER RESOLVED, that the City Council does hereby approve the conveyance of land to the District for park land from Portal Ridge LLC, in the amount of \$87,338 plus only applicable financing costs actually incurred or to be incurred by the District, if any, in its land acquisition of the 2.329 acres of park land.

BE IT FURTHER RESOLVED, that the developer shall present to the City for City's review and approval the proposed form of deed of conveyance and title policy in

**Resolution No.**

**Page 2**

advance of closing.

PASSED AND APPROVED THIS 20TH DAY OF MARCH 2007.

CITY OF LA VISTA

\_\_\_\_\_  
Douglas Kindig, Mayor

ATTEST:

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

**FULLENKAMP, DOYLE & JOBEUN**

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February 20, 2007

Ms. Cathy Lupomech  
City of LaVista  
8116 Park View Blvd.  
LaVista, NE 68128

RE: SID #276 - Portal Ridge

Dear Ms. Lupomech:

The undersigned represents SID #276.

Enclosed please find engineer's estimate for Outlots A through F, inclusive, Portal Ridge, for park land acquisition. Please be advised that the total cost of said acquisition including engineering, legal and other miscellaneous costs is \$104,806.00. We respectfully request that this matter be placed on the Council Agenda for the meeting of March 20, 2007.

Should you have any questions, please contact the undersigned.

Very truly yours,

  
ROBERT C. DOYLE

dkl  
Enc.



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October 30, 2006

Chairman and Board of Trustees  
Sanitary and Improvement District No. 276, Sarpy County  
c/o Mr. Robert Doyle  
11440 West Center Road  
Omaha, NE 68144

RE: PARK LAND ACQUISITION  
Portal Ridge, SID 276, Sarpy  
E & A FILE NO. 2005054.01 (PARK)

Dear Mr. Doyle and Boardmembers,

The Subdivision Agreement between SID 276 and the City of LaVista stipulates that the SID is to purchase Outlots A through F, inclusive, Portal Ridge, as public park land. The detailed calculation of the eligible purchase by the SID is contained in Exhibit "J" of the Subdivision Agreement and is attached hereto for reference. Based on Exhibit "J" the purchase terms are as follows:

Park Acquisition:	Part of Outlots A-F, inclusive, eligible for SID purchase 2.329 Acres X \$37,500/Ac.	\$87,338.00
	Legal, Engineering, and Fiscal Costs @ 20%	<u>\$ 17,468.00</u>
	<b>TOTAL ACQUISITION COST</b>	<b>\$104,806.00</b>

We hereby recommend payment in the total amount of **\$87,338.00** to Portal Ridge Development, LLC for park land acquisition in accordance with the subdivision agreement.

Sincerely,  
E & A CONSULTING GROUP

  
Mark A. Westergard, P.E.

cc: Mr. Tim Young, Boyer Young

Project: PORTAL RIDGE FINAL PLAT  
 Subject: Park Land Calculations  
 Date: 3/28/2006  
 Total Plat: 88.53 Acres

**EXHIBIT "J"****COMPUTATION OF PARK / GREEN SPACE / BUFFER WHICH MAY BE PURCHASED BY SID**

<u>Legal</u>	<u>Use / Description</u>	<u>Total Area</u>	<u>Eligible for SID Purchase</u>	<u>Not Eligible for SID Purchase</u>
Outlot A	Buffer / Trees Space West Boundary MU Lot Buffer	0.869	0.869	0
Outlot B	Park / Trail Corridor / Drainageway Park / Trail Corridor Drainageway (100 Year)	9.871	3.569 0	0.00 6.302
Outlot C	Buffer / Trees Space West, North and East Boundary MU Lot Buffer	0.514	0.514	0
Outlot D	Buffer on North Side of Lot 136 Ext. Street Buffer(Adjacent to Giles)	0.06	0	0.06
Outlot E	Trail Corridor East Side Trail Corridor	0.697	0.697	0.00
Outlot F	Buffer Along Giles & 103rd Street Exterior Street Buffer(Adjacent to Giles) Internal Street Buffer( Adjacent to 103rd St.)	0.564	0 0	0.366 0.198
<b>TOTALS</b>		<b>12.575</b>	<b>5.649</b>	<b>6.362</b>

**COMPUTATION OF REQUIRED PARK LAND CONTRIBUTION PER LAVISTA STANDARDS**

<u>LAND USE</u>	<u>TOTAL ACRES</u>	<u>CAPITA PER UNIT / ACRE</u>	<u>CAPITA</u>	<u>REQ'D. PARK (2.5 AC. / 1000)</u>
SING. FAM. / TOWNHOME	88.53	15	1328	3.32
<b>TOTAL PARK REQ'D.</b>				<b>3.32</b>

**COMPUTATION OF DEVELOPER PARK CONTRIBUTION**

Standard LaVista Park Contribution 3.320 Acres  
 Drainageway 6.302 Acres  
 Exterior Street Buffer 0.624 Acres

**TOTAL 10.246 Acres**

**COMPUTATION OF PARK / BUFFER LAND TO BE PURCHASED BY SID**

Eligible Park & Buffer Area 5.649 Acres  
 Less Std. LaVista Park Contribution (3.32) Acres

**TOTAL 2.329 Acres**

2.329 ACRES X \$ 37,500 / ACRE = \$ 87,338 PAID TO DEVELOPER BY SID

LAW OFFICES  
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February 28, 2007

Pamela A. Buethe, CMC  
City Clerk  
City of La Vista  
8116 Park View Boulevard  
La Vista, NE 68128-2198

In re: Portal Ridge Development, LLC (herein "Developer")  
Sale of Land to S.I.D. #276 (herein "S.I.D.")

Dear Pam:

In response to your email of 2/7/07, please be advised as follows:

1. Predetermination of Price and General Obligation Nature of S.I.D. Cost, Etc. The City Council via the Subdivision Agreement has approved the following aspects of the transaction, i.e.:
  - (a) The net amount to be paid by the S.I.D. for the 2.329 net acres for recreational/open space to be purchased by S.I.D. #276 from the Developer is \$37,500.00 per acre for a total of \$87,338.00 as set forth in Exhibit "J" to the Subdivision Agreement, and said amount shall be general obligation of the S.I.D. and, therefore, need not be specially assessed. (Section 4-K; Section 10A(1); Section 10A(2); Section 10B(4); Exhibit "J")
  - (b) The utilization of the S.I.D.'s funds or credit to be utilized in the purchase is limited to the \$87,338.00 purchase price plus the share of S.I.D. financing costs allocable to the S.I.D.'s purchase of the 2.329 acres of land (See Section 22B of the Subdivision Agreement which provides in part:

“The credit of the District shall not be involved in conjunction with District’s land acquisition other than the share of District financing costs allocable to the District’s net purchase price ...”

Thus, the S.I.D.’s Engineer’s proposed 20% add on in the amount of \$17,468.00 for soft costs is not an allowable amount.

(Observation: Since the land purchase by the District has not yet occurred, there should be no S.I.D. financing fees, warrant fees or bond fees accrued to date in respect to the S.I.D.’s purchase of the 2.329 acres.)

2. Requirement for City Council Approval. The last sentence of Section 10A(2) of the Subdivision Agreement provides “Any such purchase shall be subject to the approval of the City Council.”

The Developer has submitted its request for such an approval. It is our opinion that except for the District’s proposed expenditure of 20% in soft costs in lieu of an expenditure equivalent only to financing fees, if any, the request of the Developer/District is consistent with the provisions of the Subdivision Agreement.

The City should require the Developer/District to revise its request for City Council approval and reduce its request for approval to the \$87,338.00 purchase price plus only applicable financing costs actually incurred or to be incurred by the District, if any, in its land acquisition of the 2.329 acres.

3. City Administrative Fee Not Applicable. The last sentence of Section 22B of the Subdivision Agreement provides:

“City shall waive its administrative fee in connection with the herein authorized land acquisitions.”

4. Lot 242. As noted in the second “Whereas” clause on page 1 of the Subdivision Agreement, it was contemplated that Lot 242 would be “used for expansion of City’s public works facility or other public use” and it is exempted from the Subdivision’s Declaration of CCRs because of its non-residential nature. I am not advised as to the City’s final decisions as to Lot 242.
5. Conveyancing Requirements. The requirements for the form and content of the conveyance from the Developer to the S.I.D. are found at Section 22B of the Subdivision Agreement as follows:

- (a) Developer must own and convey the land in fee simple absolute title.



- (b) The conveyance must be by general warranty deed free and clear of all liens, taxes, mortgages, encumbrances and easements and restrictions of record, except easements and restrictions shown on the final plat (Exhibit "B" to the Subdivision Agreement) as verified by an ALTA commitment for title insurance underwritten by a title company with policy and ALTA survey in form acceptable to the City.
- (c) Developer shall present to the City for City's review and approval the proposed form of deed of conveyance and the title policy in advance of closing.
- (d) As regards any aspect of the land transaction that Developer may claim under income tax laws as a donation to the S.I.D., the Developer must provide to the City any documentation necessary to be filed with the Internal Revenue Service concerning the gift aspect of the transaction, if there be a gift aspect to the transfer.
- (e) Developer shall pay all costs of such conveyances of land to the District, including all professional services, title insurance, survey and recording fees.

Conclusion: It is our opinion that except for the S.I.D.'s erroneous inclusion of a full 20% of soft costs to be incurred by the S.I.D. in its purchase of the 2.329 acres of Developer's land, the Developer's requested approval is in conformity with the Subdivision Agreement and the administration's recommendation of approval, with the aforementioned reduction of allowable soft costs to only that of financing fees, would be appropriate.

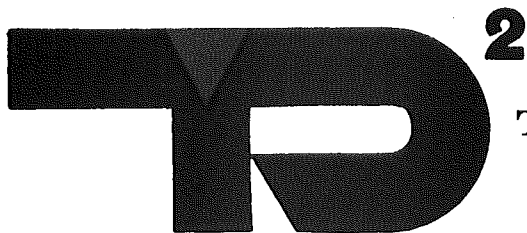
If you have any questions or wish further information, please advise.

Yours very truly,

For the Firm

JJB:ss

cc: Ms. Brenda Gunn, City Administrator  
Mr. John Kottmann  
Mr. Tom McKeon



**THOMPSON, DREESSEN & DORNER, INC.**  
**Consulting Engineers & Land Surveyors**

March 5, 2007

Ms. Pamela Buethe, CMC  
City Clerk  
City of La Vista  
8116 Park View Boulevard  
La Vista, NE 68128

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CHRIS E. DORNER, L.S.	

RE: Portal Ridge Subdivision  
S.I.D 276 Proposal for Park Land Acquisition  
TD<sup>2</sup> File No. 171-314.17


Ms. Buethe:

I have reviewed the proposal of S.I.D 276 to acquire various outlots that was transmitted to the City under a cover letter from Robert Doyle dated February 20, 2007. I offer the following comments:

1. The description of what is proposed for purchase should be corrected to read Outlots A, B, C, and E since Outlots D and F are not to be acquired by the S.I.D, but are to be owned by the Homeowners' Association.
2. The amount of acres and the purchase prices, 2.329 acres at \$87,338.00 are the correct amounts. The subdivision agreement limits the soft costs to the financing costs related to the purchase. The proposal shows a soft cost of 20%. Further information should be provided to identify what is included in this percentage. It should be limited to financing costs.
3. The subdivision agreement requires the conveyances to be in accordance with the requirements of Section 22 of the subdivision agreement. Primarily this requires an ALTA Survey of the properties to be acquired and such ALTA Survey to be reviewed and approved by the City. To my knowledge, this information has not been submitted.

In addition, as requested, I have reviewed the subdivision agreement and my files relative to the possible acquisition of Lot 242. I find a notation in the subdivision agreement and on the final plat that identifies that this lot is to be used for public facilities. I do not find any information as to the timing or cost factors associated with acquisition of the property. I have reviewed my notes from various meetings and do not find any information on the specifics of acquiring this lot. Therefore, given the limitations of Section 3 of the subdivision agreement, it is my opinion that acquisition of Lot 242 by S.I.D 276 would have to be approved by the City Council.

Submitted by,  
THOMPSON, DREESSEN & DORNER, INC.

  
John M. Kottmann, P.E.

cc: File  
Mr. Tom McKeon, City Attorney