

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
NOVEMBER 18, 2008 AGENDA**

Subject:	Type:	Submitted By:
ESTOPPEL & RELEASE CERTIFICATE	► RESOLUTION ORDINANCE RECEIVE/FILE	BRENDA S. GUNN CITY ADMINISTRATOR

SYNOPSIS

A resolution has been prepared to approve estoppel and release certificate regarding Lots 34 and 46, Brook Valley Business Park.

FISCAL IMPACT

NA.

RECOMMENDATION

Approval.

BACKGROUND

Lots 34 and 46, Brook Valley Business Park are currently located in the portion of the Brook Valley Business Park that is within the corporate limits of La Vista. As you know, in the past there have been some issues regarding the special assessments and the developer. There are no special assessments due and owing at this time for these lots. Prior to the closing between Yahoo! and THT, the City of La Vista was asked to provide a limited Estoppel and Release Certificate for subject lots.

The Estoppel and Release Certificate says that the City has no knowledge of any existing obligations of the District or the Developer under the Subdivision Agreement which are or would become obligations of the current or a future owner of the Real Property. It further releases the owner of the Real Property from any future obligations of the District, Developer and/or the City arising with respect to the Subdivision Agreement, except for previously levied but unpaid property taxes, future levies of property taxes and future levies of special assessments for future special benefit to the Real Property.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING ESTOPPEL AND RELEASE CERTIFICATE REGARDING LOTS 34 AND 46, BROOK VALLEY BUSINESS PARK.

WHEREAS, the City of La Vista was asked to provide a limited Estoppel and Release Certificate for Lots 34 and 46, Brook Valley Business Park ("Estoppel and Release Certificate") related to the Subdivision Agreement dated September 21, 1994 as recorded in the Register of Deeds of Sarpy County, Nebraska on October 5, 1994 as Instrument No. 94-21638

WHEREAS, it is the desire of the City of La Vista to provide the limited Estoppel and Release Certificate; and

WHEREAS, the limited Estoppel and Release Certificate has been proposed in form and content presented at this meeting.

NOW THEREFORE, BE IT RESOLVED that the Mayor and the City Council hereby approve the proposed Estoppel and Release Certificate in form and content presented at this meeting.

BE IT FURTHER RESOLVED that the Mayor and the City Clerk are hereby authorized to execute and deliver said Estoppel and Release Certificate.

PASSED AND APPROVED THIS 18TH DAY OF NOVEMBER 2008.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

ESTOPPEL AND RELEASE CERTIFICATE

This ESTOPPEL AND RELEASE CERTIFICATE (this "Certificate") is executed by the CITY OF LA VISTA, a municipal corporation in the State of Nebraska (the "City"), on this _____ day of _____, 2008.

WHEREAS, the City entered into that certain Subdivision Agreement (the "Subdivision Agreement") dated September 21, 1994, with the Sanitary and Improvement District No. 59 of Sarpy County, Nebraska (the "District"), and Brook Valley Ltd Partnership, a Nebraska limited partnership ("Developer"), as recorded with the Sarpy County Register of Deeds on October 5, 1994 as Instrument No. 94-21638; and

WHEREAS, the City has annexed portions of the real property described in the Subdivision Agreement, including but not limited to the real property generally known as 10917 Harry Watanabe Parkway, La Vista, Nebraska and legally described as follows:

Lots 34 and 46, Brook Valley Business Park, an addition to the City of La Vista, in Sarpy County, Nebraska (the "Real Property"); and

WHEREAS, the annexation of the Real Property by the City has caused the Real Property to be separated from the remaining sections of the District; and

WHEREAS, for the benefit of the owner of the Real Property and to induce future potential owners to acquire the Real Property, the City desires to confirm that the special assessments levied February 24, 2000 related to the obligations of the District and Developer under paragraph 14 of the Subdivision Agreement with respect to the Real Property have been satisfied and to release the owner of the Real Property from any future obligations specifically related to said special assessments as levied and paid. Further, City agrees to release the owner of Real Property from any future obligations related to paragraph 14 (G) of the Subdivision Agreement, except for those obligations which would be of special benefit to the owner of Real Property and except for future special assessments, unpaid past, unpaid current or future general taxes and unpaid past, unpaid current or future mill levies assessed against the Real Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of

which are hereby acknowledged, the City, pursuant to the approval of the La Vista City Council by Resolution, hereby certifies and agrees for the benefit of the owner of the Real Property, its successors and assigns, as follows:

1. As of the date hereof, the City has no knowledge of any existing obligations of the District or the Developer under the Subdivision Agreement which are or would become obligations of the current or a future owner of the Real Property.
2. The City hereby releases the owner of the Real Property from any and all present and future obligations of the District, Developer, and/or the City arising with respect to the Subdivision Agreement, except for the following:
 - a. Previously levied but unpaid property taxes, both real and personal, of record against the Real Property; and
 - b. Future levies of property taxes, both real and personal; and
 - c. Future levies of special assessments for future special benefit to the Real Property.
3. The certification, agreements, and releases stated in this Certificate shall not be valid or have force or effect until recorded with the Register of Deeds of Sarpy County, Nebraska and shall run with the land and create equitable servitudes in favor of the Real Property and shall inure to the benefit of the existing owner of the Real Property and its successors, assigns, transferees, heirs, lenders and personal representatives, as applicable.
4. The City acknowledges that this Certificate is given to induce potential future owners of the Real Property to acquire the Real Property, and that such future owners, their lenders and successors and assigns may rely on the certifications, agreements and releases contained herein.

IN WITNESS WHEREOF, the City hereby executes this Certificate as of the day and year first above written.

CITY OF LA VISTA, a municipal corporation

ATTEST:

Pamela A. Buethe, CMC
City Clerk, City of La Vista

Douglas Kindig
Mayor, City of La Vista

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2008, by Douglas Kindig, the Mayor of the City of La Vista and Pamela A. Buethe, CMC, the City Clerk of the City of La Vista on behalf of the City of La Vista.

Notary Public