

MINUTE RECORD

No. 729—REDFIELD & COMPANY, INC., OMAHA

LA VISTA CITY COUNCIL MEETING February 2, 2010

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 7:00 p.m. on February 2, 2010. Present were Councilmembers: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Absent: None. Also in attendance were City Attorney McKeon, City Engineer Kottmann, City Administrator Gunn, Assistant City Administrator Ramirez, City Clerk Buethe, Library Director Barcal, Police Chief Lausten, Fire Chief Uhl, Finance Director Lindberg, Recreation Director Stopak, Building and Grounds Director Archibald, and Public Works Director Soucie.

A notice of the meeting was given in advance thereof. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Mayor Kindig called the meeting to order and led the audience in the pledge of allegiance.

Mayor Kindig made an announcement regarding the agenda policy statement providing for expanded opportunity for public comment on the agenda items.

A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF CITY COUNCIL MINUTES FROM JANUARY 19, 2010
3. APPROVAL OF LA VISTA/METROPOLITAN COMMUNITY COLLEGE CONDOMINIUM OWNERS ASSOCIATION, INC. MINUTES FROM NOVEMBER 2, 2009
4. APPROVAL OF PLANNING COMMISSION MINUTES FROM JANUARY 21, 2010
5. PAY REQUEST FROM KIRKHAM MICHAEL - PROFESSIONAL SERVICES - \$6,600.00
6. PAY REQUEST NO. 10 FROM EDAW/AECOM - 84TH STREET REDEVELOPMENT VISION - \$1,670.64
7. APPROVAL OF CLAIMS

Councilmember Sell made a motion to approve the consent agenda. Seconded by Councilmember Carlisle. Councilmember Crawford reviewed the claims for this period and reported that he found everything to be in order. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

ABE'S PORTABLES, Rentals	32.00
ACTION BATTERIES, Supplies	20.88
ADT SECURITY SERVICES, Contract Services	246.74
AKSARBEN GARAGE DOOR SVCS, Bldg & Grnds	125.00
AKSARBEN HEATING/ARS, Refund	24.75
ALAMAR UNIFORMS, Wearing Apparel	401.90
ALS AFFILIATES, Training	350.00
APWA-AMER PUBLIC WORKS ASSN, Dues	282.00
ARAMARK UNIFORM SERVICES, Contract Services	264.53
ASPEN EQUIPMENT, Winter Maint.	174.13
AUTO GLASS TINT, Vehicle Maint.	140.00
BAKER & TAYLOR BOOKS, Books	1,487.91
BATTERY ZONE, Batteries	529.49
BCDM-BERINGER CIACCIO DENNELL, Professional Services	575.00
BCR-BIBLIOGRAPHICAL, Fees	28.84
BEACON BUILDING SERVICES, Contract Services	6,437.00
BENNINGTON EQUIPMENT, Vehicle Maint.	1,328.86
BENSON RECORDS, Contract Services	54.68
BETTER BUSINESS EQUIPMENT, Rentals	43.93
BLACK HILLS ENERGY, Utilities	18.15
BOBCAT OF OMAHA, Vehicle Maint.	414.92
BOB'S RADIATOR REPAIR, Vehicle Maint.	48.50
BUETHE, PAM, Vehicle Maint./ Supplies/Travel/Phone	55.54
BURCAW, SCOTT, Training	35.00
CALENTINE, JEFFREY, Phone	30.00
CENTER POINT PUBLISHING, Books	248.04
CITY OF OMAHA, Contract Services	42,904.77

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COMP CHOICE, Professional Services	148.50
CONTROL MASTERS, Bldg & Grnds	574.70
CORNHUSKER INTL TRUCKS, Vehicle Maint.	950.61
COX, Phone/Contract Services	102.60
CPS HUMAN RESOURCE SERVICES, Contract Services	909.70
CREIGHTON EMS EDUCATION, Training	100.00
DAYSPRING PRINTING, Printing	603.00
DELL MARKETING, Contract Services	7,582.86
DOUGLAS COUNTY SHERIFF, Contract Services	50.00
ED M. FELD EQUIPMENT, Wearing Apparel	1,336.00
ED ROEHR SAFETY PRODUCTS, Equipment	2,456.55
EMBASSY SUITES HOTEL, Travel	124.80
ENGLER, JOHN P, PHD, Contract Services	500.00
ENTERPRISE LOCKSMITHS, Vehicle Maint.	45.00
FARQUHAR, MIKE, Auto Allowance	100.00
FASTENAL COMPANY, Vehicle Maint.	6.04
FEDEX, Postage	53.33
FILTER CARE, Vehicle Maint.	42.40
FROEHLICH, RORY, Auto Allowance	100.00
GALE, Books	71.23
GCR OMAHA TRUCK TIRE CENTER, Vehicle Supplies	1,113.78
GOLDMAN, JOHN, Phone	85.00
GRAINGER, Bldg & Grnds	476.98
GRAYBAR ELECTRIC, Bldg & Grnds	16.40
GREAT PLAINS UNIFORMS, Wearing Apparel	53.50
GUNN, BRENDA, Phone	45.00
H & H CHEVROLET, Vehicle Maint.	22.77
HANEY SHOE STORE, Wearing Apparel	120.00
HARBOR FREIGHT TOOLS, Bldg & Grnds	199.96
HEARTLAND AWARDS, Wearing Apparel	64.50
HELGET GAS, Squad Supplies	98.00
HOOK-FAST SPECIALTIES, Wearing Apparel	91.48
HUNTEL, Contract Services	4,570.49
IMAGE TREND, Fire Dept Donations	7,400.00
IOWA PRISON INDUSTRIES, Traffic Signs	2,648.10
J Q OFFICE EQUIPMENT, Contract Services	264.62
JESUS, MATTHEW, Contract Services	40.00
KINDIG, DOUGLAS, Phone	80.00
KLINKER, MARK, Professional Services	200.00
KNEHER, SARAH, Refund	55.00
KRIHA FLUID POWER, Vehicle Maint.	121.84
LA VISTA COMMUNITY FOUNDATION, Payroll Deductions	70.00
LAUGHLIN, KATHLEEN, Payroll Withholdings	809.00
LAW ENFORCEMENT SUPPLY, Wearing Apparel	219.28
LEAGUE ASSN OF RISK MGMT, Insurance and Bonds	15,831.00
LIEN TERMITE & PEST CONTROL, Contract Services	1,373.00
LINCOLN FINANCIAL, Employee Benefits	6,232.32
LINWELD, Supplies	303.98
LUKASIEWICZ, BRIAN, Phone	50.00
MALLARD SAND & GRAVEL, Winter Maint.	4,425.99
MC CARTHY HEATING & AIR, Refund	22.16
MCKAY, DONALD, Travel	122.00
MCNAMARA, CASSLYN, Contract Services	20.00
MCNAMARA, VICTORIA, Contract Services	90.00
METRO COMMUNITY COLLEGE, Utilities/Phone/Contract Services	7,130.45
MICHAEL TODD AND COMPANY, Vehicle Maint.	274.08
MID AMERICA PAY PHONES, Phones	50.00
MID-STATES UTILITY TRAILER, Supplies	187.47
MINUTE MAN PRINTING, Printing	80.46
MOCIC MID-STATES ORGANIZED, Dues	200.00
MUD, Utilities	318.39
NE DEPT OF REVENUE, Lottery Taxes	81,529.78
NEBRASKA FURNITURE MART, Equipment	224.88
NEBRASKA TURF PRODUCTS, Bldg & Grnds	620.15
NEXTEL COMMUNICATIONS, Phone	778.48
NLA LEGISLATIVE DAY, Training	20.00
NMC EXCHANGE, Vehicle Maint.	795.31
NUTS AND BOLTS, Vehicle Maint.	44.77
OFFICE DEPOT, Supplies	392.14
OMAHA TRUCK CENTER, Vehicle Maint.	249.91

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OMB EXPRESS POLICE SUPPLY, Supplies	244.98
PAPILLION SANITATION, Contract Services	304.11
PAPILLION TIRE, Vehicle Maint.	81.15
PAPILLION WELDING, Equipment	153.50
PARAMOUNT LINEN & UNIFORM, Uniform Cleaning	405.96
PAUL CONWAY SHIELDS, Wearing Apparel	136.50
PRECISION INDUSTRIES, Winter Maint.	395.00
PREISTER, WES, Refund	110.00
PRESTIGE FLAG, Bldg & Grnds	364.96
QUALITY AUTO, Contract Services	81.00
QWEST, Phone	1,031.96
RAINBOW GLASS & SUPPLY, Vehicle Maint.	185.21
RAMIREZ, RITA, Phone	43.00
RANGER JOE'S INTERNATIONAL, Wearing Apparel	68.93
RECORDED BOOKS, Media	1,288.08
REPCO MARKETING, Supplies	35.25
SAPP BROS, Vehicle Supplies	828.25
SARPY COUNTY COURTHOUSE, Contract Services	3,495.03
SARPY COUNTY TREASURER, Contract Services	8,750.00
SID 195 - MAYFAIR, Sewer Hookups	660.00
SIGNAL 88 SECURITY GROUP, Training	400.00
SMITH, MELANIE, Travel	122.00
SOUCIE, JOSEPH, Phone	60.00
SPRINT, Phone	122.87
STATE FIRE MARSHAL, Training	50.00
STATE STEEL, Bldg & Grnds	304.75
STERIL MANUFACTURING, Repair	50.00
STEVENS, MARK, Travel	122.00
STOPAK, SCOTT, Phone	50.00
SUBURBAN NEWSPAPERS, Dues	39.50
TARGET BANK, Wearing Apparel	65.99
TIEHEN, JAMES, Auto Allowance	100.00
TOMSU, LINDSEY, Training	95.00
TY'S OUTDOOR POWER & SVC, Bldg & Grnds	275.00
UNIVERSAL STEERING HYDRAULIC, Vehicle Maint.	210.00
UNIVERSITY OF VIRGINIA, Training	2,800.00
UPS, Postage	122.58
VAIL, ADAM, Auto Allowance	100.00
VERIZON, Phone	191.07
VITALSIGNS, Refund	112.50
WAL-MART, Supplies	258.43
WICK'S STERLING TRUCKS, Vehicle Maint.	7.26
WITKOVSK, BARB, Training	69.01

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

City Administrator Gunn reminded Council that the Employee Recognition Dinner will begin at 6:00 p.m. on Saturday.

City Clerk Buethe reminded Council that the filing deadline for incumbents is Tuesday, February 16, 2010 at 5:00 p.m.

Police Chief Lausten informed Council that D.A.R.E. graduation will be held on February 25th and February 26th.

Fire Chief Uhl informed Council that the La Vista Fire and Rescue Department is running smoothly with the newly elected and appointed officers.

Public Works Director Soucie informed Council the 16 hour snow hauling operation has terminated. Soucie informed Council that all Christmas decorations have been removed. Soucie stated that the Christmas tree collections sites remained open a little longer than scheduled, due to the weather conditions. The trees have been taken to Papillion and will be chipped together with their trees.

Community Development Director Birch informed Council the year-end building report will be presented at the next City Council meeting. Birch updated Council on the rental inspection program, stating that 311 application packets had been sent. Twenty-eight names have been removed from the rental property list, and currently there are twenty-two inspections scheduled through March.

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Recreation Director Stopak informed Council the Senior Valentine Lunch will be held on February 12th. The luncheon will begin at 11:30 and in cooperation with the City of Papillion and the Papillion Senior Center. Stopak informed Council that AARP is providing free tax preparation at the Community Center.

Library Director Barcal introduced a new Library employee, Jan Bolte, to the Council.

B. RESOLUTION – THOMPSON CREEK GRANT AGREEMENT

Councilmember Quick introduced and moved for the adoption of Resolution No. 10-011: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NEBRASKA EMERGENCY MANAGEMENT AGENCY (NEMA) FOR A HAZARD MITIGATION GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR THE THOMPSON CREEK AREA IN LA VISTA.

WHEREAS, the City Council of the City of La Vista has determined that said Thompson Creek improvements are necessary; and

WHEREAS, the FY 2009/10 budget contains funding for this project; and

WHEREAS, the project has been designated as being eligible for a grant from the Federal Emergency Management Agency; and

WHEREAS, the Nebraska Emergency Management Agency, in the role of Grantee will provide financial oversight and management of this project; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorize the Mayor to enter into an agreement with the Nebraska Emergency Management Agency for a hazard mitigation grant from the Federal Emergency Management Agency for the Thompson Creek area in La Vista.

Seconded by Councilmember Carlisle. Resident Brenda Tillman asked the timeline for the plan. Jeanette Brezina, who owns a house at 73rd Street and Valley Road, would like the City to release a permanent easement on their property to allow parking. Sandra Dugger, a La Vista resident, informed Council she was not willing to sell the house. The family has lived there for 30 years. She stated she had contacted City Hall staff, but had not received a call back from anyone. Jamie Sibley, who lives at 74th Street and Park View Blvd wanted to know if the house could be sold sooner. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: Sheehan. Absent: None. Motion carried.

C. RESOLUTION – SELECTION CONCURRENCE AND CONSTRUCTION CONTRACT AUTHORIZATION – GILES ROAD PAVEMENT REPAIR PROJECT MAPA-5012(9)

Councilmember Gowan introduced and moved for the adoption of Resolution No. 10-012: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA ACCEPTING IOWA EROSION CONTROL, INC. VICTOR, IA AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE CONSTRUCTION CONTRACTS ON BEHALF OF THE CITY OF LA VISTA FOR THE GILES ROAD PAVEMENT REPAIR PROJECT IDENTIFIED AS MAPA - 5012(9).

WHEREAS, the City Council of the City of La Vista has determined that said Giles Road Pavement Repairs are necessary; and

WHEREAS, the FY 2009/10 Capital Improvement Program includes funding for Giles Road Pavement Repair; and

WHEREAS, the project has been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration; and

WHEREAS, the State and City received bids for the said project on January 14, 2010 and Iowa Erosion Control, Inc., Victor IA was selected as the low bidder; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, to accept Iowa Erosion Control, Inc., Victor IA and authorize the Mayor and City Clerk

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to execute construction contracts on behalf of the City of La Vista for the Giles Road Pavement Repair Project identified as MAPA – 5012(9).

Seconded by Councilmember Sheehan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

D. RESOLUTION – SELECTION CONCURRENCE AND CONSTRUCTION CONTRACT AUTHORIZATION – 108TH & CHANDLER ROAD SIGNAL PROJECT MAPA-5011(13)

Councilmember Sell introduced and moved for the adoption of Resolution No. 10-013: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA ACCEPTING COMMONWEALTH ELECTRIC COMPANY OF THE MIDWEST, LINCOLN NE AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE CONSTRUCTION CONTRACTS ON BEHALF OF THE CITY OF LA VISTA FOR THE 108TH & CHANDLER ROAD SIGNAL PROJECT IDENTIFIED AS MAPA - 5011(13).

WHEREAS, the City Council of the City of La Vista has determined that said safety improvements at the intersection of 108th and Chandler Road are necessary; and

WHEREAS, the FY 2009/10 Capital Improvement Program includes funding for safety improvements at the intersection of 108th & Chandler Road; and

WHEREAS, the project has been designated as being eligible for American Recovery and Reinvestment Act (ARRA) Funds by the Department of Transportation, Federal Highway Administration; and

WHEREAS, the State and City received bids for the said project on January 14, 2010 and Commonwealth Electric Company of the Midwest, Lincoln NE was selected as the low bidder; and

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, to accept Commonwealth Electric Company of the Midwest, Lincoln NE and authorize the Mayor and City Clerk to execute construction contracts on behalf of the City of La Vista for the 108th & Chandler Road Signal Project identified as MAPA – 5011(13).

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

E. RESOLUTION – MEMORANDUM OF UNDERSTANDING – NEBRASKA DEPARTMENT OF ROADS

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 10-014: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE NEBRASKA DEPARTMENT OF ROADS TO SATISFY THE REQUIREMENTS OF THE ILLICIT DETECTION AND ELIMINATION PROGRAM AND MEET CONDITIONS OF ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.

WHEREAS, the City Council of the City of La Vista has determined that the maintenance responsibilities for non-freeway highway appurtenances located within corporate limits reside with the municipality according to State Statutes; and

WHEREAS, the City of La Vista will be responsible for storm sewer system mapping along non-freeway portions of the state highway system within the municipal separate storm sewer system (MS4); and

WHEREAS, the only area included in this requirement will be 84th Street (N-85) from Harrison Street to Giles Road; and

WHEREAS, the City of La Vista completed mapping of the storm sewer system for 84th Street (N-85) in 2008 and the information has been captured in an electronic format and is readily available for use by NDOR;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorizing the Mayor and City Clerk to execute a Memorandum of Understanding

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with the Nebraska Department of Roads to satisfy the requirements of the Illicit Detection and Elimination Program and meet conditions of its National Pollutant Discharge Elimination System.

Seconded by Councilmember Sell. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

F. RESOLUTION – AUTHORIZATION TO ADVERTISE FOR BIDS – DEMOLITION OF LONG'S STATION

Councilmember Crawford introduced and moved for the adoption of Resolution No. 10-015: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE ADVERTISEMENT FOR BIDS FOR THE DEMOLITION OF THE LONG'S SERVICE STATION

WHEREAS, the Mayor and Council have determined that it is necessary to take bids for the demolition and site clearance of Long's Service Station; and

WHEREAS, the Board of Appeals directed that the City may demolish the building immediately; and

WHEREAS, Staff recommends proceeding with the demolition because of the dangers posed by the building

WHEREAS, the FY 09/10 General Fund budget provides funding for such demolition;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council hereby authorize the advertisement for bids and the City Clerk is hereby authorized to advertise for the bids in accordance with the plans and specifications prepared by the City Engineer, and said sealed proposals are to be opened publicly at 10:00 a.m. February 22, 2010 at City Hall, 8116 Park View Blvd., La Vista, Nebraska 68128.

Advertise for Bids	February 11, 2010
Open Bids	February 18, 2010
Tentative Award Date	February 22, 2010
Start of Demolition	March 2, 2010
	Approximately 30 days after bid award

Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

G. RESOLUTION – AUTHORIZATION TO PURCHASE RECEPTION COUNTER

Councilmember Gowan introduced and moved for the adoption of Resolution No. 10-016: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE AND INSTALLATION OF A RECEPTION COUNTER FROM C.E. SMITH CABINETS, PAPILLION NEBRASKA, IN AN AMOUNT NOT TO EXCEED \$5,464.51

WHEREAS, it has been determined that a reception counter located inside the front doors at the Community Center is necessary; and

WHEREAS, funds were included in the FY10 General Fund Budget for a reception counter; and

WHEREAS, a proposal was solicited from C.E. Smith, Papillion Nebraska due to quality of work and the ability to deliver the product in a timely manner; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the city administrator secure Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, do hereby authorize the purchase and installation of a reception counter at the Community Center in an amount not to exceed \$5,464.51.

Seconded by Councilmember Carlisle. Councilmember Sell asked if the employee seated in this area would be able to see various areas of the Community Center. Building and Grounds

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Director Archibald stated the employee would have a visual of the Community Center. Councilmember Quick asked if the current employee office will remain. Archibald responded that no significant changes will be made to the existing office area. Councilmember Quick asked if there would be problems with cold temperatures, being so near the entrance. Archibald stated the reception counter goes to the floor. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

H. RESOLUTION – SPECIAL DESIGNATED LIQUOR LICENSE – EASTER SEALS OF NEBRASKA

Councilmember Ellerbeck introduced and moved for the adoption of Resolution No. 10-017: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE CONSUMPTION OF ALCOHOL AT AN EASTER SEALS SOCIETY OF NEBRASKA INC FUNDRAISING EVENT AT THE LA VISTA CONFERENCE CENTER ON FEBRUARY 27, 2010.

WHEREAS, the La Vista Conference Center is located within the City of La Vista; and

WHEREAS, Easter Seals Society of Nebraska has requested approval of a Special Designated Permit to serve wine at a fundraising event at the Conference Center on February 27, 2010 from 12:00 p.m. to 1:00 a.m.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize Easter Seals Society of Nebraska to proceed with the application for a "Special Designated License" from the Nebraska Liquor Control Commission to sell serve alcohol at the La Vista Conference Center, in conjunction with a fundraising event.

Seconded by Councilmember Sheehan. Councilmembers voting aye: Sell, Ronan, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: Quick. Absent: None. Motion carried.

COMMENTS FROM THE FLOOR

Mayor Kindig asked if there were any comments from the floor; and stated that anyone having comments should limit them to three minutes. There were no comments from the floor.

COMMENTS FROM MAYOR AND COUNCIL

Councilmember Sheehan asked Finance Director Lindberg to review the purchasing policy. He would like to see Department Heads initial each purchase order. Councilmember Gowan agreed with this request. Finance Director Lindberg responded that currently the Department Head is required to approve the requisition prior to the printing of a purchase order. Councilmember Carlisle stated that there needs to be a ruling from the auditor. Lindberg will talk to the Auditor and they can talk to Council when they present the audit in March.

At 8:23 p.m. Councilmember Carlisle made a motion to adjourn the meeting. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck, and Gowan. Nays: None. Absent: None. Motion carried.

PASSED AND APPROVED THIS 16TH DAY OF FEBRUARY 2010

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

Meeting of Board of Directors

LA VISTA/METROPOLITAN COMMUNITY COLLEGE CONDOMINIUM OWNERS ASSOCIATION, INC.

MINUTES OF MEETING

February 1, 2010
3:00 p.m.

Members Present: Pat Archibald Rose Barcal Brenda Gunn
 Rich Hanneman Arlene Jordan

Members Absent: Dave Koebel

Guests: Tom McKeon, Kevin Pokorny, Bob Lausten, Jim Grotrian, Jim Thibodeau, Bernie Sedlacek

Agenda Item #1: Announcement of Location of Posted Meetings Act:

A copy of the Open Meetings Act is posted on the North wall of the conference room for public access and reference. A copy of the act is also available.

Agenda Item #2: Approval of the Notice of Meeting.

Notice of Meeting was published by the City and College in the Times and the Omaha World-Herald. Moved by Hanneman and seconded by Gunn to approve. Ayes: all. Nays: none. Motion approved.

Agenda Item #3: Approval of the Minutes from August 3, 2009 Meeting.

Moved by Gunn and seconded by Hanneman to approve the November 2, 2009 meeting minutes. Ayes: all. Nays: none. Motion approved.

Agenda Item #4: City of La Vista 50th Anniversary Celebration.

Pokorny and Lausten provided information about two 50th anniversary outdoor family oriented events scheduled at the Sarpy Center. The College will request a MCC Board resolution to allow wine at the events. Hold Harmless forms need to be completed and sent to Rich Hanneman.

Outdoor Movie Nights – starting around dark (9:30pm)

Friday, July 16th, 2010

Friday, August 13th, 2010

Outdoor Summer Concert Series (Jazz on the Green concept) – 6:30pm – 8:30pm

Friday, July 9, 2010

Friday, July 23, 2010

Friday, August 6, 2010

Agenda Item #5: Parking.

With increased enrollment, parking can be a challenge during peak periods. This issue is being discussed as part of the College's long-range planning goals.

Agenda Item #6: Other Business.

2010 Condo Meeting dates approved.

Agenda Item #7: Executive Session to Discuss Geothermal Well Field Negotiating Strategy.

At 3:08 p.m. Gunn made a motion to go onto executive session for protection of the public interest for discussion and evaluation of strategy to resolve Geothermal Well Field.

At 4:00 p.m. the Board came out of executive session. It was moved by Gunn and seconded by Hanneman to adjourn the meeting at 4:02 p.m.

The next Board of Directors' Meeting is on Monday, May 3, 2010 at 3:00 p.m. La Vista/MCC Sarpy Center Conference Room #142.

Minutes respectfully submitted by Arlene Jordan

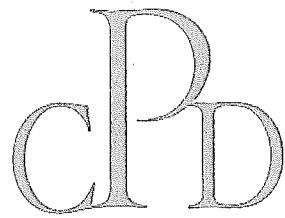
CITY OF LAVISTA
COMBINED STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE-PROPRIETARY FUNDS
BUDGET AND ACTUAL

For the three months ended January 31, 2010

33% of the Fiscal Year

* Preliminary Net Assets

CPD Program Invoice



February 3, 2010

CENTER FOR
PROFESSIONAL
DEVELOPMENT

Billing Information:

Pam Buethe
City Clerk
City of La Vista
8116 Park View Boulevard
La Vista, NE 68128
(402) 331.4343
pbuethe@ci.la-vista.ne.us

2500 California Plaza
Omaha NE 68178
Tel. 402.280.2425
Tel. 800.637.4279
Fax. 402.280.2423
www.creighton.edu/cpd

Date	Program	Amount Due
Certificate in Supervisory Leadership Program		
	Wednesdays 1-4 p.m. beginning 1/06/2010 and running through 3/10/2010	
Fees:	\$1,000 per program x 10 programs	\$10,000.00
	\$100 per person x 39 participants	\$ 3,900.00
<i>(Fees include program binder, assessments, certificates and plaques. Client will provide meals and advertising.)</i>		
<hr/>		
TOTAL DUE: \$ 13,900.00		

Thank you for your participation in our program!

Please remit payment by February 28th, 2010. Credit card payments can be made by phoning (402) 280-2425 between 8:00 a.m. and 3:30 p.m., Monday through Friday. Checks can be mailed to:

Center for Professional Development
ATTN: Valerie Mattix
Creighton University
2500 California Plaza
Omaha, NE 68178

*Concert Agenda
OK to pay
Buethe
01.28.03/3*

BANK NO	BANK NAME	CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
1	Bank of Nebraska (600-873)								
98909	2/03/2010	480	UNITED STATES POSTAL SERVICE			1,426.57			**MANUAL**
98910	2/03/2010	3702	LAUGHLIN, KATHLEEN A, TRUSTEE			809.00			**MANUAL**
98911	2/03/2010	3956	KIRKHAM MICHAEL & ASSOCs INC			6,600.00			**MANUAL**
98912	2/03/2010	4123	EDAW INCORPORATED			1,670.64			**MANUAL**
98913	2/03/2010	1839	BCDM-BERINGER CIACCIO DENNELL			766.25			**MANUAL**
98914	2/05/2010	2158	COX COMMUNICATIONS			63.60			**MANUAL**
98915	2/16/2010	459	ABANTE MARKETING			365.63			
98916	2/16/2010	897	ACI-NEBRASKA CHAPTER			60.00			
98917	2/16/2010	762	ACTION BATTERIES UNLTD INC			90.95			
98918	2/16/2010	2723	AKSARBEN GARAGE DOOR SVCS INC			452.00			
98919	2/16/2010	571	ALAMAR UNIFORMS			305.94			
98920	2/16/2010	106	ALL MAKES OFFICE EQUIPMENT CO			154.00			
98921	2/16/2010	1973	ANN TROE			760.00			
98922	2/16/2010	536	ARAMARK UNIFORM SERVICES INC			384.95			
98923	2/16/2010	1678	ASPEN EQUIPMENT COMPANY			55.41			
98924	2/16/2010	188	ASPHALT & CONCRETE MATERIALS			223.26			
98925	2/16/2010	2991	BAIRD HOLM LLP			99.00			
98926	2/16/2010	201	BAKER & TAYLOR BOOKS			773.82			
98927	2/16/2010	4248	BALDWIN, GREG			250.00			
98928	2/16/2010	1839	BCDM-BERINGER CIACCIO DENNELL			50.00			
98929	2/16/2010	1784	BENNINGTON EQUIPMENT INC			253.35			
98930	2/16/2010	3774	BENSON RECORDS MANAGEMENT CTR			54.30			
98931	2/16/2010	410	BETTER BUSINESS EQUIPMENT			43.93			
98932	2/16/2010	249	BKD LLP			10,500.00			
98933	2/16/2010	196	BLACK HILLS ENERGY			14,932.57			
98934	2/16/2010	56	BOB'S RADIATOR REPAIR CO INC			62.00			
98935	2/16/2010	1143	BRAND, STEVEN			293.00			
98936	2/16/2010	1242	BRENTWOOD AUTO WASH			42.00			
98937	2/16/2010	76	BUILDERS SUPPLY CO INC			57.60			
98938	2/16/2010	2625	CARDMEMBER SERVICE-ELAN			2,095.57			
98939	2/16/2010	4257	CIGNA			508.00			
98940	2/16/2010	83	CJ'S HOME CENTER			.00	**CLEARED**	**VOIDED**	
98941	2/16/2010	83	CJ'S HOME CENTER			127.05			
98942	2/16/2010	3176	COMP CHOICE INC			262.50			
98943	2/16/2010	836	CORNHUSKER INTL TRUCKS INC			199.12			
98944	2/16/2010	2102	CREIGHTON EMS EDUCATION			2,270.00			
98945	2/16/2010	951	CZARNICK, MICHAEL J			1,500.00			
98946	2/16/2010	3136	D & D COMMUNICATIONS			285.00			
98947	2/16/2010	846	DATA TECHNOLOGIES INC			630.00			
98948	2/16/2010	261	DAVIS, JAMES C			1,500.00			
98949	2/16/2010	619	DELL MARKETING L.P.			.00	**CLEARED**	**VOIDED**	
98950	2/16/2010	619	DELL MARKETING L.P.			2,860.28			
98951	2/16/2010	2149	DOUGLAS COUNTY SHERIFF'S OFC			112.50			
98952	2/16/2010	364	DULTMEIER SALES & SERVICE			34.72			
98953	2/16/2010	142	FITZGERALD SCHORR BARMETTLER			29,364.69			
98954	2/16/2010	3673	FOSTER, TERRY			293.00			
98955	2/16/2010	3705	FUTUREWARE DISTRIBUTING INC			.00	**CLEARED**	**VOIDED**	
98956	2/16/2010	3705	FUTUREWARE DISTRIBUTING INC			110.00			
98957	2/16/2010	3984	G I CLEANER & TAILORS			86.95			
98958	2/16/2010	1344	GALE			94.94			
98959	2/16/2010	1697	GAYLORD BROS			102.48			

BANK NO CHECK NO	BANK NAME DATE	VENDOR NO VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
98960	2/16/2010	53 GCR OMAHA TRUCK TIRE CENTER	500.81			
98961	2/16/2010	966 GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
98962	2/16/2010	966 GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
98963	2/16/2010	966 GENUINE PARTS COMPANY-OMAHA	.00	**CLEARED**	**VOIDED**	
98964	2/16/2010	966 GENUINE PARTS COMPANY-OMAHA	2,173.67			
98965	2/16/2010	35 GOLDMAN, JOHN G	32.09			
98966	2/16/2010	285 GRAYBAR ELECTRIC COMPANY INC	231.60			
98967	2/16/2010	385 GREAT PLAINS ONE-CALL SVC INC	62.81			
98968	2/16/2010	4086 GREAT PLAINS UNIFORMS	.00	**CLEARED**	**VOIDED**	
98969	2/16/2010	4086 GREAT PLAINS UNIFORMS	.00	**CLEARED**	**VOIDED**	
98970	2/16/2010	4086 GREAT PLAINS UNIFORMS	624.50			
98971	2/16/2010	1044 H & H CHEVROLET LLC	25.99			
98972	2/16/2010	426 HANEY SHOE STORE	240.00			
98973	2/16/2010	3657 HEARTLAND PAPER	160.00			
98974	2/16/2010	4178 HERITAGE CRYSTAL CLEAN LLC	92.75			
98975	2/16/2010	1612 HY-VEE INC	64.29			
98976	2/16/2010	2322 INDUSTRIAL SALES COMPANY INC	100.00			
98977	2/16/2010	162 INLAND TRUCK PARTS	82.65			
98978	2/16/2010	1760 INTERSTATE ALL BATTERY CENTER	171.60			
98979	2/16/2010	1896 J Q OFFICE EQUIPMENT INC	258.68			
98980	2/16/2010	2379 JO DON'S	340.00			
98981	2/16/2010	4255 JOHNSON, VERN	30.00			
98982	2/16/2010	3047 KEY MASTERS OF GREATER OMAHA	66.00			
98983	2/16/2010	4256 KUTSCHER, ANGELA	45.00			
98984	2/16/2010	3198 LEAGUE OF NEBR MUNICIPALITIES	260.00			
98985	2/16/2010	877 LINWELD	626.30			
98986	2/16/2010	1539 MALLARD SAND & GRAVEL COMPANY	1,687.88			
98987	2/16/2010	153 METRO AREA TRANSIT	705.00			
98988	2/16/2010	553 METROPOLITAN UTILITIES DIST.	.00	**CLEARED**	**VOIDED**	
98989	2/16/2010	553 METROPOLITAN UTILITIES DIST.	506.63			
98990	2/16/2010	98 MICHAEL TODD AND COMPANY INC	466.00			
98991	2/16/2010	3921 MID-STATES UTILITY TRAILER	347.28			
98992	2/16/2010	4251 MIDLANDS TESTING SERVICES	115.00			
98993	2/16/2010	371 MIDWEST SERVICE AND SALES CO	617.49			
98994	2/16/2010	1050 MILLER PRESS	915.00			
98995	2/16/2010	1028 NATIONAL PAPER COMPANY INC	177.24			
98996	2/16/2010	372 NE LIQUOR CONTROL COMMISSION	45.00			
98997	2/16/2010	469 NEBRASKA FURNITURE MART	341.97			
98998	2/16/2010	407 NEBRASKA CODE OFFICIALS ASSN	230.00			
98999	2/16/2010	3294 NEFSMA-NE FLOODPLAIN/STORMWTR	100.00			
99000	2/16/2010	653 NEUMAN EQUIPMENT COMPANY	.00	**CLEARED**	**VOIDED**	
99001	2/16/2010	653 NEUMAN EQUIPMENT COMPANY	247.00			
99002	2/16/2010	440 NMC EXCHANGE LLC	3,059.62			
99003	2/16/2010	179 NUTS AND BOLTS INCORPORATED	149.36			
99004	2/16/2010	3415 OABR PRINT SHOP	.00	**CLEARED**	**VOIDED**	
99005	2/16/2010	3415 OABR PRINT SHOP	.00	**CLEARED**	**VOIDED**	
99006	2/16/2010	3415 OABR PRINT SHOP	.00	**CLEARED**	**VOIDED**	
99007	2/16/2010	3415 OABR PRINT SHOP	1,676.37			
99008	2/16/2010	1014 OFFICE DEPOT INC-CINCINNATI	68.17			
99009	2/16/2010	4236 OMAHA PIPES AND DRUMS	200.00			
99010	2/16/2010	195 OMAHA PUBLIC POWER DISTRICT	.00	**CLEARED**	**VOIDED**	
99011	2/16/2010	195 OMAHA PUBLIC POWER DISTRICT	.00	**CLEARED**	**VOIDED**	
99012	2/16/2010	195 OMAHA PUBLIC POWER DISTRICT	42,291.17			

BANK NO	BANK NAME	CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
99013		2/16/2010		181	OMAHA SLINGS INCORPORATED	46.85			
99014		2/16/2010		46	OMAHA WORLD HERALD COMPANY	862.95			
99015		2/16/2010		4240	OUTDOOR MOVIES	16,845.00			
99016		2/16/2010		3039	PAPILLION SANITATION	304.11			
99017		2/16/2010		2686	PARAMOUNT LINEN & UNIFORM	370.96			
99018		2/16/2010		1769	PAYLESS OFFICE PRODUCTS INC	.00	**CLEARED**	**VOIDED**	
99019		2/16/2010		1769	PAYLESS OFFICE PRODUCTS INC	420.58			
99020		2/16/2010		3058	PERFORMANCE CHRYSLER JEEP	155.25			
99021		2/16/2010		1821	PETTY CASH-PAM BUETHE	83.82			
99022		2/16/2010		3089	PFEIFER, VICKI	42.80			
99023		2/16/2010		2552	PLUTA, DON	41.00			
99024		2/16/2010		159	PRECISION INDUSTRIES	198.88			
99025		2/16/2010		1921	PRINCIPAL LIFE-FLEX SPENDING	222.75			
99026		2/16/2010		605	PROTEX CENTRAL INCORPORATED	348.75			
99027		2/16/2010		4260	QUALITY IRRIGATION	269.00			
99028		2/16/2010		219	QWEST	131.88			
99029		2/16/2010		58	RAINBOW GLASS & SUPPLY	96.00			
99030		2/16/2010		3139	RECORDED BOOKS, LLC	438.31			
99031		2/16/2010		3090	REGAL AWARDS OF DISTINCTION	36.59			
99032		2/16/2010		4037	RUSTY ECK FORD	37.47			
99033		2/16/2010		292	SAM'S CLUB	463.07			
99034		2/16/2010		487	SAPP BROS PETROLEUM INC	9,607.28			
99035		2/16/2010		168	SARPY COUNTY LANDFILL	120.00			
99036		2/16/2010		3457	SCARPA, DAN	41.00			
99037		2/16/2010		4238	SHELL, BECKY	30.00			
99038		2/16/2010		115	SIRCHIE FINGER PRINT LABS	44.98			
99039		2/16/2010		171	STANDARD IRON WORKS INC	158.76			
99040		2/16/2010		3069	STATE STEEL OF OMAHA	18.94			
99041		2/16/2010		332	SUSPENSION SHOP INCORPORATED	791.42			
99042		2/16/2010		143	THOMPSON DREESSEN & DORNER	.00	**CLEARED**	**VOIDED**	
99043		2/16/2010		143	THOMPSON DREESSEN & DORNER	10,221.39			
99044		2/16/2010		4179	TITAN MACHINERY	117.16			
99045		2/16/2010		161	TRACTOR SUPPLY CREDIT PLAN	92.24			
99046		2/16/2010		2426	UNITED PARCEL SERVICE	64.62			
99047		2/16/2010		559	UNIVERSITY OF NEBRASKA LINCOLN	100.00			
99048		2/16/2010		78	WASTE MANAGEMENT NEBRASKA	760.94			
99049		2/16/2010		4219	WEATHER OR NOT	250.00			
99050		2/16/2010		968	WICK'S STERLING TRUCKS INC	447.79			

BANK TOTAL	188,454.03
OUTSTANDING	188,454.03
CLEARED	.00
VOIDED	.00

FUND	TOTAL	OUTSTANDING	CLEARED	VOIDED
01 GENERAL FUND	131,372.41	131,372.41	.00	.00
02 SEWER FUND	18,477.75	18,477.75	.00	.00
05 CONSTRUCTION	3,711.76	3,711.76	.00	.00
08 LOTTERY FUND	32,224.62	32,224.62	.00	.00
09 GOLF COURSE FUND	2,039.13	2,039.13	.00	.00
15 OFF-STREET PARKING	628.36	628.36	.00	.00

APCHCKRP
03.30.09

Tue Feb 16, 2010 11:20 AM

City of LaVista
ACCOUNTS PAYABLE CHECK REGISTER

OPER: AKH

PAGE 4

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REPORT TOTAL	188,454.03
OUTSTANDING	188,454.03
CLEARED	.00
VOIDED	.00
+ Gross Payroll 02/05/10	<u>212,064.51</u>
GRAND TOTAL	<u>\$400,518.54</u>

APPROVED BY COUNCIL MEMBERS 02/16/10

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 16, 2010 AGENDA

Subject:	Type:	Submitted By:
ZONING TEXT & MAP AMENDMENTS — ADDING 84 TH STREET TO THE GATEWAY CORRIDOR OVERLAY DISTRICT	◆ RESOLUTION ◆ ORDINANCE (2) RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and ordinances have been prepared for Council to consider amendments to Section 5.17 of the Zoning Ordinance regarding the Gateway Corridor Overlay District, to add the 84th Street corridor to the geographic area of the district, and amend the Official Zoning Map.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing has been scheduled and ordinances have been prepared for Council to consider amendments to Section 5.17 of the Zoning Ordinance regarding the Gateway Corridor Overlay District, to add the 84th Street corridor to the geographic area of the district, and amend the Official Zoning Map.

The proposed amendments to the Section 5.17 of the Zoning Ordinance are intended to do the following:

- 1) Add language to Section 5.17.01, Intent, to more clearly identify that the regulations apply to multi-family, commercial and industrial building projects only (single family is excluded).
- 2) Add language to Section 5.17.03, Geographic Area, for the purpose of including the 84th Street corridor to the district.
- 3) Delete an unintentional duplication of the sub-area secondary overlay area description and delete a reference to an approximately one-quarter (1/4) mile boundary. The Official Zoning Map identifies the geographic boundary of the district.
- 4) Add language to Section 5.17.04, Criteria for Application, to identify that the regulations also apply to substantial redevelopment of existing buildings and include a definition of substantial redevelopment.

Attached is a red-lined copy of each page of the Zoning Ordinance with the proposed amendments, as well as a portion of the Official Zoning Map with the proposed boundary of the 84th Street corridor within the Gateway Corridor District.

The Planning Commission held a public hearing on January 21, 2010 and voted unanimously to recommend approval with revisions.

\Lvdcfp01\users\Administration\BRENDA\COUNCIL\10 Memos\Zoning Text Amend. - Gateway Corridor.doc

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 5.17.01, 5.17.03 AND 5.17.04 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 5.17.01, 5.17.03, AND 5.17.04 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Sections 5.17.01, 5.17.03 and 5.17.04. Section 5.17.01, 5.17.03 and 5.17.04 of Ordinance No. 848 is hereby amended to read as follows:

5.17 GATEWAY CORRIDOR DISTRICT (OVERLAY DISTRICT):

5.17.01 Intent:

The City of La Vista has established basic site and building development criteria to be implemented within the boundaries of this overlay district for all multi-family, industrial, and commercial building projects. The Gateway Corridor District has been established in order to implement the policies developed in the Future Land Use Plan portion of the Comprehensive Development Plan. These criteria include, but are not limited to the following: landscaping, building material selection, lighting, and interior street development. The purpose for regulating these issues is to provide for a cohesive and properly developed entrance into the City of La Vista from the Interstate corridor. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City, by providing quality design and construction which will also aid in the protection of past and future investment in the corridor.

Within the Gateway Corridor Overlay District there is a sub-area secondary overlay centered on the intersection of 96th and Giles Road (see Official Zoning map). The purpose of this secondary overlay evolves around a partnership between the City of La Vista and Metropolitan Community College which have made a significant investment in the community with the new La Vista Public Library / MCC Sarpy Center. The City's desire is that this district be the standard of quality for all multi-family, industrial, and commercial building projects within this geographically defined area. See Section 5.17.06 for special design criteria for this sub-area. (Ordinance No. 1048, 10-2-07)

5.17.03 Geographic Area:

The Gateway Corridor Overlay District extends generally from 132nd Street to 108th Street and from Harrison Street to West Giles Road/Giles Road, roughly following close to West Giles Road, Giles Road, and Interstate 80, and along the 84th Street corridor from Harrison Street to Giles Road. If a site is partially covered by said overlay district, then the entire portion of the site facing the Gateway Corridor is to be covered by these regulations. For a geographically defined area, see the Official Zoning Map. (Ordinance No. 1048, 10-2-07)

The sub-area secondary overlay -area occurs within all developments that front on the 96th Street and Giles Road corridors including:

- Giles Road Corridor – from 90th Street to 108th Street.
- 96th Street Corridor – from Harrison Street to Portal Road

If a site is partially covered by said sub-area secondary overlay district, then the entire portion of the site facing 96th and/or Giles Road is to be covered by these regulations. See Section 5.17.06 for special design criteria for this geographic area. For a geographically defined area, see the Official Zoning Map. (Ordinance No. 1048, 10-2-07)

5.17.04 Criteria for Application:

- 5.17.04.01 All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar shall be required to meet the zoning requirements for a Planned Unit Development (PUD). The PUD process and rezoning shall be in conjunction with Preliminary and Final Plat review and approval.
- 5.17.04.02 All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.
- 5.17.04.03 All substantial redevelopment of existing buildings shall comply with the design criteria of this section. Substantial redevelopment shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure,

the cost of which equals or exceeds 50 percent of the market value of the structure before the start of the redevelopment.

SECTION 2. Repeal of Section 5.17.01, 5.17.03, and 5.17.04 of Ordinance No. 848 as previously enacted are hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 5. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF FEBRUARY 2010.

CITY OF LA VISTA

Douglas Kingdig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

Section 1. Approval of Map Amendment. On January 21, 2010, the La Vista Planning Commission conducted a public hearing on the matter of adding the 84th Street corridor to the geographic area of the Gateway Corridor Overlay District as identified on the Official Zoning Map. On February 16, 2010, the City Council held a public hearing on said proposed amendment to the Official Zoning Map and found and determined that said proposed change is advisable and in the best interests of the City. The City Council further found and determined that public hearings were duly held and notices, including published notice, were duly given pursuant to Section 3.02.01 of the Zoning Ordinance. The City Council hereby approves said proposed amendment to the Official Zoning Map as set forth in Section 2 of this ordinance.

Section 2. Amendment of the Official Zoning Map. Pursuant to Article 3 of the Zoning Ordinance, the 84th Street corridor as shown on the attached Exhibit "A" is added to the Gateway Corridor Overlay District.

The amended version of the Official Zoning Map of the City of La Vista is hereby adopted and shall be signed by the Mayor, attested to by the City Clerk and shall bear the seal of the City under the following words:

"This is to certify that this is the Official Zoning Map referred to in Article 3 Section 3.02 of Ordinance No. 848 of the City of La Vista, Nebraska"

and shall show the date of the adoption of that ordinance and this amendment.

Section 3. Effective Date. This ordinance shall be in full force and effect upon the date of passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF FEBRUARY 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

Section 5.17 GATEWAY CORRIDOR DISTRICT (OVERLAY DISTRICT)

5.17.01 Intent:

The City of La Vista has established basic site and building development criteria to be implemented within the boundaries of this overlay district *for all multi-family, industrial, and commercial building projects*. The Gateway Corridor District has been established in order to implement the policies developed in the Future Land Use Plan portion of the Comprehensive Development Plan. These criteria include, but are not limited to the following: landscaping, building material selection, lighting, and interior street development. The purpose for regulating these issues is to provide for a cohesive and properly developed entrance into the City of La Vista from the Interstate corridor. Guiding development in this manner promotes the general health, safety and welfare of the residents within the zoning jurisdiction of the City, by providing quality design and construction which will also aid in the protection of past and future investment in the corridor.

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Within the Gateway Corridor Overlay District there is a sub-area secondary overlay centered on the intersection of 96th and Giles Road (see Official Zoning map). The purpose of this secondary overlay evolves around a partnership between the City of La Vista and Metropolitan Community College which have made a significant investment in the community with the new La Vista Public Library / MCC Sarpy Center. The City's desire is that this district be the standard of quality for all *multi-family, industrial, and commercial building projects* within this *geographically defined area*. See Section 5.17.06 for special design criteria for this sub-area. *(Ordinance No. 1048, 10-2-07)*

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5.17.02 Purpose:

The purpose of these criteria is to establish a checklist of those items that affect the physical aspect of La Vista's environment. Pertinent to appearance is the design of the site, building and structures, planting, signs, street hardware, and miscellaneous other objects that are observed by the public.

The criteria contained herein are not intended to restrict imagination, innovation or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the city, preserve taxable values, and promote the public health, safety and welfare.

5.17.03 Geographic Area:

The Gateway Corridor Overlay District extends generally *from 132nd Street to 108th Street and from Harrison Street to West Giles Road/Giles Road, roughly following close to West Giles Road, Giles Road, and Interstate 80, and along the 84th Street corridor from Harrison Street to Giles Road*. If a site is partially covered by said overlay district, then the entire portion of the site facing the Gateway Corridor is to be covered by these regulations. For a *geographically defined area*, see the Official Zoning Map. *(Ordinance No. 1048, 10-2-07)*

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The sub-area secondary overlay -area occurs within all developments that front on the 96th Street and Giles Road corridors including:

- Giles Road Corridor – from 90th Street to 108th Street.
- 96th Street Corridor – from Harrison Street to *Portal* Road

If a site is partially covered by said sub-area secondary overlay district, then the entire portion of the site facing 96th and/or Giles Road is to be covered by these regulations. See Section 5.17.06 for special design criteria for this geographic area. *For a geographically defined area, see the Official Zoning Map. (Ordinance No. 1048, 10-2-07)*

Deleted: The sub-area secondary overlay -area occurs within all developments that front on the 96th Street and Giles Road corridors including:
▪ <#> Giles Road Corridor – from 90th Street to 108th Street.
▪ <#> 96th Street Corridor – from Harrison Street to *Cornhusker* Road
The sub-area shall extend away from the centerline of each street for approximately one-quarter (1/4) mile. If a site is partially covered by said sub-area secondary overlay district, then the entire portion of the site facing 96th and/or Giles Road is to be covered by these regulations. See Section 5.17.06 for special design criteria for this geographic area.

5.17.04 Criteria for Application:

5.17.04.01 All developments consisting of more than one principal building, mixed-uses, multiple-pad development and/or similar shall be required to meet the zoning requirements for a Planned Unit Development (PUD). The PUD process and

rezoning shall be in conjunction with Preliminary and Final Plat review and approval.

5.17.04.02 All developments consisting of one principal building with single or mixed uses shall comply with the design criteria of this section.

5.17.04.03 *All substantial redevelopment of existing buildings shall comply with the design criteria of this section. Substantial redevelopment shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of the redevelopment.*

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5.17.05 Criteria for Appearance

5.17.05.01 Relationship of Buildings to Site.

The site shall be planned to accomplish a desirable transition with the streetscape and to provide for adequate planting, safe pedestrian movement, and parking areas.

1. Site planning in which setbacks and yards are in excess of standard commercial zoning restrictions is encouraged to provide an interesting relationship between buildings.
2. Parking areas shall be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means so as to screen parking areas from view from public ways.
3. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.
4. Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

5.17.05.02 Relationship of Buildings and Site to Adjoining Area (Outside Of Subdivision).

1. Adjacent buildings of different architectural styles shall be made compatible by such means as screens, sight breaks, and materials.
2. Attractive landscape transitions shall be designed to be compatible to adjoining properties.
3. Harmony in texture, lines, and masses is required. Monotony shall be avoided.

5.17.05.03 Landscape and Site Treatment.

Landscape elements included in these criteria consist of all forms of planting and vegetation, ground forms, rock groupings, water patterns, and all visible construction except buildings and utilitarian structures.

1. Where natural or existing topographic patterns contribute to beauty and utility of a development, they shall be preserved and developed. Modification to topography will be permitted where it contributes to good site design and development.
2. Grades of walks, parking spaces, terraces, and other paved areas shall provide an inviting and stable appearance for walking and, if seating is provided, for sitting.
3. Landscape treatments shall be provided to enhance architectural features, strengthen vistas and important axis, and provide shade. Spectacular effects shall be reserved for special locations only.
4. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments.
5. Plant material shall be selected for interest in its structure, texture, and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design, and of good appearance shall be used.

6. Parking areas and traffic ways shall be enhanced with landscaped spaces containing trees or tree groupings.
7. Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, planting, or combinations of those. Screening shall be equally effective in winter and summer.
8. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.
9. All fencing within this Overlay shall not exceed six (6) feet in height.
10. Fencing within the District and as part of an Industrial Development may be required to be a solid fence.

5.17.05.04

Building Design.

1. Architectural design and style are not restricted, however architectural style should be consistent throughout the subdivision. See Gateway Corridor District Design Guideline Booklet for examples of developments considered meeting this concept. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
3. The primary building material of all portions of the structures shall be negotiated with the City, however, sample materials shall include but not be limited to materials of high quality, such as brick (clay), stucco, wood, glass, split faced concrete masonry units (CMU) with integrated color pigmentation and stone material native to Eastern Nebraska. The materials shall be similar and compatible throughout the entire development. The La Vista staff and design review architect may allow other primary building designs (of good architectural character i.e. CMU, poured-in-place concrete) for portions of the building not visible from public areas. Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.
4. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.
5. Materials shall be of durable quality.
6. In any design in which the structural frame is exposed to view, the structural materials shall be compatible within themselves and harmonious with their surroundings.
7. Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationships to one another.
8. Colors shall be harmonious and shall use only compatible accents.
9. Colors shall be of "low reflectance, subtle, neutral, or earth tones" and shall not be of high-intensity or metallic colors unless the colors are true to the materials being used.
10. Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be so located as not to be visible from any public ways.
11. Exterior lighting shall be part of the architectural concept. Fixtures, standards, and all exposed accessories shall be harmonious with building design.

12. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening.
13. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form, and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.
14. Building orientation shall be toward an arterial street, unless it is demonstrated that this would not be feasible.

5.17.06 Sub-area Secondary Overlay

5.17.06.01 **Special Criteria For Sub-area.**
 The criteria found in this section are intended to be supplemental to the design standards stated in previous sections of this Article. See section 5.17.02 and 5.17.03 for purpose and geographic area of the Sub-area.

5.17.06.02 **Landscape And Site Treatment.**

1. Unity of design shall be achieved by repetition of certain plant varieties and other materials and by correlation with adjacent developments. All projects need to use a minimum of the following listed plant varieties of the plants used at the La Vista Public Library / MCC Sarpy Center. See Gateway Corridor District Design Guideline Booklet for a listing of those plant materials.
 - A. A minimum of two (2) species listed under the deciduous tree category.
 - B. A minimum of one (1) species listed under the coniferous tree category.
 - C. A minimum of one (1) species listed under the deciduous shrub category.
 - D. A minimum of one (1) species listed under the coniferous shrub category.
2. Exterior lighting, when used, shall enhance the building design and the adjoining landscape. Lighting standards and fixtures for the parking areas and drives within the commercial building area shall be similar in appearance and quality level as the light fixtures used at the La Vista Public Library / MCC Sarpy Center. See Gateway Corridor District Design Guideline Booklet for information on the required light fixture style. Building fixtures shall be of a design and size compatible with the building and adjacent areas. Lighting shall be restrained in design and excessive brightness avoided.

5.17.06.03 **Building Design.**
 The primary building material of all portions of the building shall be brick (clay) with its color selected for harmony of the building with adjoining buildings within its subdivision. The La Vista staff and design review architect may allow other primary building designs (of good architectural character i.e. split faced concrete block) for portions of the building not visible from public areas (i.e. facades that back up to landscape buffer between commercial buildings and residential). Other secondary building materials shall have good architectural character and shall be selected for harmony of the building with adjoining buildings.

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5.17.07 Factors For Evaluation

The following factors and characteristics, which affect the appearance of a development, will govern the evaluation of a design submission:

- 5.17.07.01 Conformance of ordinances and the Building Design Criteria.
- 5.17.07.02 Logic of design.
- 5.17.07.03 Exterior space utilization.
- 5.17.07.04 Architectural character.
- 5.17.07.05 Attractiveness Material selection.
- 5.17.07.06 Harmony and compatibility.
- 5.17.07.07 Circulation-vehicular and pedestrian.
- 5.17.07.08 Maintenance aspects.

5.17.08 Process

- 5.17.08.01 **Planned Unit Development (PUD) Application**
All developments within the Gateway Corridor District shall be required to apply for rezoning under the criteria in Section 5.15 of this Ordinance.
- 5.17.08.02 **Subdivision Approval**
All Commercial Building projects within the city of La Vista need to receive Subdivision approval. As a condition of its subdivision approval, all commercial building projects within the required geographic region will have to comply with the Gateway Corridor District regulations and Gateway Corridor District Design Guideline Booklet. The Developer shall place maintenance provisions required by this section within all restrictive covenants.
- 5.17.08.03 **Pre-application Conference:**
A pre-application conference with city staff to give the applicant an opportunity to discuss plans before a great deal of time or money is expended.
- 5.17.08.04 **Application for Design Review:**
The applicant needs to fill out the "Application for Certificate of Approval" and submit it along with the required submittals. See Gateway Corridor District Design Guideline Booklet for a listing of required submittals.
- 5.17.08.05 **Design Review:**
The City of La Vista staff in association with the city design review architect will review the submittal documents for compliance with the Gateway Corridor District Design Guideline Booklet.
- 5.17.08.06 **Certificate of Approval:**
Upon a successful review the City of La Vista will issue to the applicant a Certificate of Approval. A copy of this will need to be included with the Building Permit documents in order to receive a Building Permit.
- 5.17.08.07 **Appeals:**
In the event where the Applicant, City staff and City design review architect cannot come to an agreement the applicant may appeal the decision by requesting an amendment to the Subdivision Agreement from the La Vista City Council.
- 5.17.08.08 **Certificate of Occupancy Permit:**

After the building permit is issued, all design requirements must be completed as approved in order for a Certificate of Occupancy to be issued.

5.17.08.10 Maintenance of Design requirements:
The Applicant needs to maintain the Design Requirements for the life of the project. In the event that they fail to do so the City may revoke the Occupancy Permit.

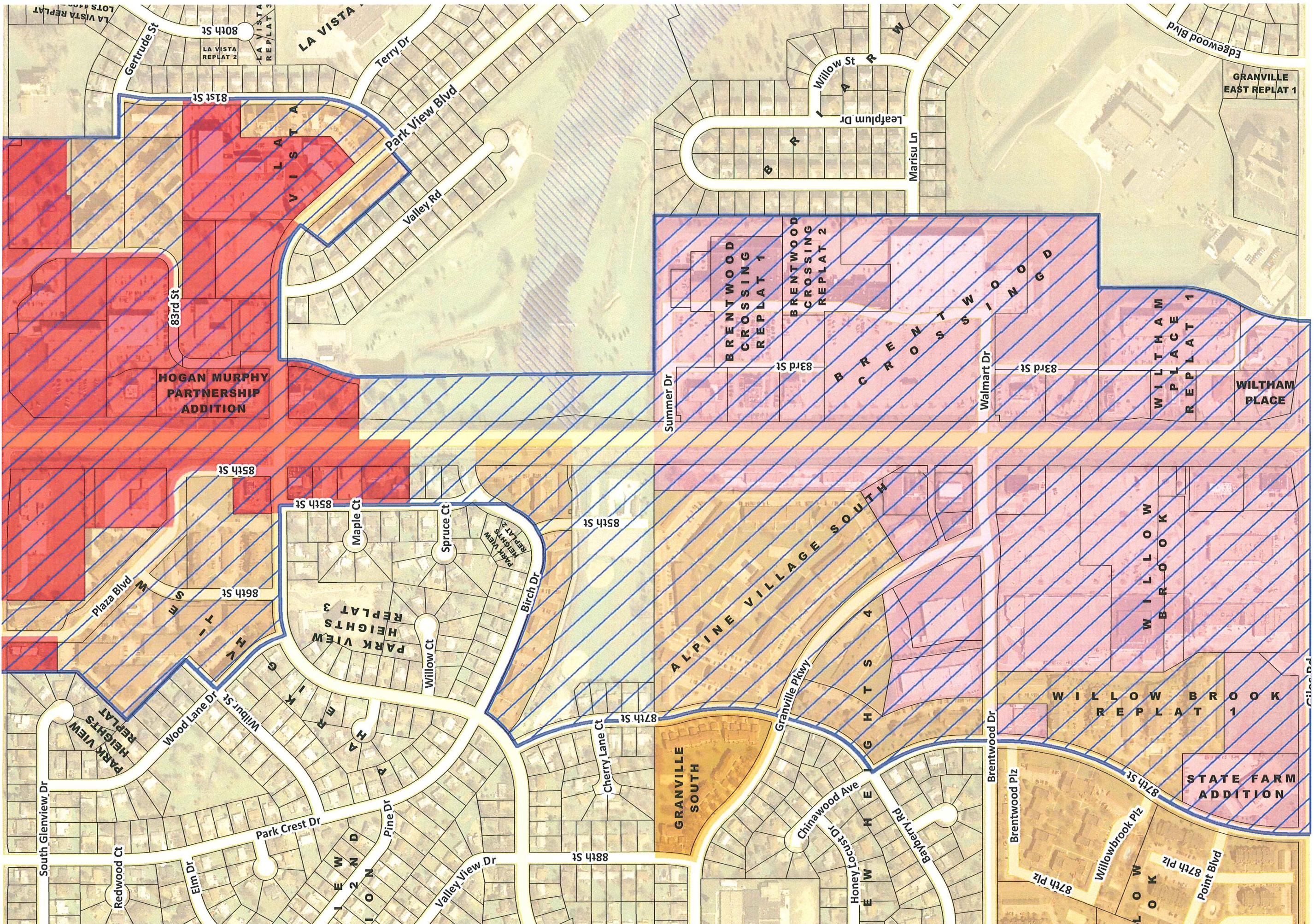
5.17.08.11 Fees:
Fees may apply to each individual step as established in the Master Fee Schedule.

84TH STREET GATEWAY CORRIDOR

Ordinance 1114 - Exhibit A

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CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 16, 2010 AGENDA

Subject:	Type:	Submitted By:
AMENDMENTS TO THE SUBDIVISION REGS & CHAPTER 154, MUNICIPAL CODE — POST-CONSTRUCTION STORM WATER MANAGEMENT PLANS	◆ RESOLUTION ◆ ORDINANCE (2) RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

A public hearing has been scheduled and ordinances have been prepared for Council to consider amendments to the Subdivision Regulations and Chapter 154 of the Municipal Code regarding storm water management.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approve.

BACKGROUND

A public hearing has been scheduled and ordinances have been prepared for Council to consider amendments to the Subdivision Regulations and Chapter 154 of the Municipal Code regarding Post Construction Storm Water Management Plans.

City Engineer John Kottmann has prepared the proposed revisions to the Subdivision Regulations and the Municipal Code which include the following:

- 1) The storm water peak discharge rates after development of the property are required to be the same as the pre-development conditions for the 2-year storm event.
- 2) The addition of Papillion Creek Watershed Management fees to be collected for new developments and significant redevelopment requiring a subdivision agreement. The fees will be transferred to the Papio-Missouri River Natural Resources District for the construction of regional detention structures and water quality basins.
- 3) Setbacks for streams designated in the Papillion Creek Watershed Plan are increased to three-to-one plus fifty feet (3:1 + 50').
- 4) The Omaha Regional Storm Water Design Manual has been adopted for storm sewer design standards. For single family subdivisions, storm water management areas are encouraged to be in outlots in lieu of individual private lots.

The Planning Commission held a public hearing on January 21, 2010 and voted unanimously to recommend approval with a correction to Section 4.22 of the Subdivision Regulations.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 3.03.15, 3.03.20, 4.18, 4.22, AND 5.07 OF ORDINANCE 906 (SUBDIVISION REGULATIONS); TO REPEAL SECTIONS 3.03.15, 3.03.20, 4.18, 4.22, AND 5.07 OF ORDINANCE 906 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

Section 1. That Sections 3.03.15, 3.03.20, 4.18, AND 5.07 of the Subdivision Regulations of the City of La Vista are amended to read as follows:

3.03 Preliminary Plat Specifications.

3.03.15 Six (6) draft copies of a subdivision agreement with itemized cost estimates for infrastructure improvements with proposed allocation of costs between sources of funding, letter size exhibits setting forth size and location of infrastructure improvements, and two (2) copies of full-size exhibits setting forth size and location of infrastructure improvements. The draft subdivision agreement shall include a statement of the estimated Storm Water Management Fees in accordance with Chapter 154 of the La Vista Municipal Code to be generated through ultimate development of the subdivision. Draft subdivision agreements shall be required when the proposed subdivision will include public and/or private, shared (common area) infrastructure improvements. Draft subdivision agreements may be required in other cases as determined by the City.

(Ord. _____, passed _____)

3.03.20 Four copies of the following documents are to be submitted to the City for review at the time of the preliminary plat submittal:

1. A sanitary sewer plan.
2. A surface storm drainage plan including provisions to provide water quality improvements to the first one-half inches (0.5") of runoff from the site and to reduce stormwater discharge rates after development of the site to pre-development conditions for the 2-year return frequency storm event measured at every drainage outlet (stormwater discharge).

(Ord. _____, passed _____)

3. A street profile plan with a statement of proposed street improvements.
4. A Post-Construction Storm Water Management Plan, as provided in Chapter 154 of the La Vista Municipal Code, with a proposed implementation schedule or sequence of phased construction, and proposed maintenance, inspection and operation procedures for the proposed BMP's. A draft Maintenance Agreement and Easement shall be included with this submittal. (Ord. _____, passed _____)

4.18 Design Standards: Storm Sewer System.

The storm sewer system shall be designed in accordance with the Omaha Regional Storm Water Design Manual, Papillion Creek Watershed Plan, and Chapter 154 of the City of La Vista Municipal Code all as amended from time to time. In addition, provisions shall be made to limit the 10-year peak rate of storm water discharge from the subdivision. Post-development peak runoff rate shall not exceed 1.25 times the pre-development runoff rate at any time following post-development based upon a 10-year storm event. Pre-development shall be the condition prior to improvements being completed, including agricultural uses. For single family subdivisions, storm water management facilities should be community-based in outlots rather than on individual private lots.

(Ord. _____, passed _____)

4.22 Design Standards: Creek Setback.

No person shall be granted a permit for the construction of any structure, exclusive of bank stabilization structures, adjacent to any creek or stream unless such structure is located so that no portion thereof is any closer to the stream than will allow a maximum three-to-one slope plus

20 feet between the water's edge of the stream and the closest point on the structure at grade. For those creeks or streams designated in the Papillion Creek Watershed Plan, the setback shall be increased to allow a maximum three-to-one slope plus 50 feet between the water's edge of the stream and the closest point on the structure at grade. As used herein, the edge of the water of the stream shall be the point constituting the edge of the water during normal flow conditions. (Ord. _____, passed _____)

5.07 Required Improvements; Drainage.

A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water of the subdivision and the drainage area of which it is a part. The storm sewer system shall be designed in accordance with the Omaha Regional Storm Water Design Manual, the Papillion Creek Watershed Plan, and Chapter 154 of the City of La Vista Municipal Code, all as amended from time to time. In addition, provisions shall be made to limit the peak rate of storm water discharge from the subdivision. Post development runoff (cubic feet per second) shall not exceed 1.25 times the predevelopment runoff rate at any time following post-development, based upon a 10-year storm event. Pre-development shall be the condition prior to improvements being completed, including agricultural uses. For single family subdivisions, storm water management facilities should be community-based in outlots rather than on individual private lots. Storm sewers shall be constructed and installed to provide adequate drainage in accordance with any supplemental recommendations of the city engineer. In addition, the developer shall submit a drainage report prepared by a registered professional engineer as to the existing and proposed drainage conditions. A preliminary report shall be included with the preliminary plat. The final report shall be attached to the final plat and shall include an evaluation of the ability of the proposed water courses, drainage tiles, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the run-off which would be generated by the development of the land within and above the subdivision and the impacts of such drainage on downstream drainage systems.

5.07.01 The preliminary plat report shall include:

1. Preliminary estimates of the quantity of storm water entering the subdivision naturally and upon full development of lots within the subdivision for 10-year and 100-year frequency storm events.
2. Existing conditions of the watershed that may affect the proposed subdivision, such as soil type, drainage channels, obstructions and the like.
3. A preliminary grading plan illustrating proposed drainage management.

5.07.02 The final plat drainage report shall contain:

1. Calculations of the quantity of storm water entering the subdivision naturally and estimates of such storm water upon full development within the subdivision based on the proposed zoning.
2. Quantities of flow at each pick-up point.
3. Estimates and type of temporary erosion control measures necessary to control erosion during construction.
4. A description of an adequate drainage system within the subdivision and its for 100-year frequency storm events.

5.07.03.1 **Drainage Requirements.** The subdivider shall provide adequate drainage facilities within the subdivision including storm sewers upon recommendation of the city engineer. If storm sewers are not necessary all open ditches shall be graded and all pipes, culverts, intersection drains, drop inlets, bridges, headwalls, gutters and similar or related installations necessary to provide adequate surface water drainage shall be constructed and installed in accordance with plans approved by the City Council upon recommendation by the city engineer. Ord. _____, passed _____)

SECTION 3. **Repeal of Sections 3.03.15, 3.03.20, 4.18, and 5.07 as Previously Enacted.** Sections 3.03.15, 3.03.20, 4.18, and 5.07 of Ordinance No. 906 as previously enacted is hereby repealed.

SECTION 4. **Severability Clause.** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication as provided by law.

SECTION 6. This ordinance shall be published in pamphlet form and take effect as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF FEBRUARY 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

K:\APPS\City Hall\ORDINANCES\1084 Amend Subdivision Reg 3.03.20

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 154.01 THROUGH 154.28 AND ADD SECTION 154.29 OF THE LA VISTA MUNICIPAL CODE RELATING TO STORM WATER MANAGEMENT REGULATIONS; TO REPEAL SECTIONS 154.01 THROUGH 154.28 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA:

SECTION 1. Amendment of Sections 154.01 through 154.28. Sections 154.01 through 154.28 of the La Vista Municipal Code is hereby amended by deleting Sections 154.01 through 154.28 and replacing it in its entirety with the following:

CHAPTER 154: STORM WATER MANAGEMENT REGULATIONS

Section

- 154.01 Purpose and authority
- 154.02 Incorporation by reference
- 154.03 Definitions
- 154.04 Illicit discharges prohibited
- 154.05 Prohibition of illicit connections
- 154.06 Removal of illicit connection
- 154.07 Private storm water conveyance systems
- 154.08 Discharge of sanitary sewage prohibited
- 154.09 Damage to the municipal storm sewer system
- 154.10 Waste disposal prohibitions
- 154.11 Prohibited discharges from industrial/commercial activities
- 154.12 Notification of prohibited discharges required
- 154.13 Grading permit required
- 154.14 Application for grading permit
- 154.15 Grading permit fee
- 154.16 Issuance of grading permit
- 154.17 Erosion and sediment control at construction and development sites
- 154.19 Post-construction storm water management plan
- 154.20 Exemptions from the post-construction storm water management plan
- 154.21 Maintenance of post-construction BMPs
- 154.22 Admission to property
- 154.23 Regulatory actions
- 154.24 Notice of violation; correction of violations
- 154.25 Penalty; recovery of damages
- 154.26 Additional rules and regulations
- 154.27 Appeals
- 154.28 Conflicts with other code sections
- 154.29 Papillion Creek watershed management fees

§ 154.01 PURPOSE AND AUTHORITY.

(A) The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased and altered storm water runoff. Proper management of storm water runoff will minimize damage to public and private property, reduce the harmful effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

(B) The application of this chapter and provisions expressed herein shall be the minimum storm water management requirements and shall not be deemed a limitation on such management practices. The city shall be responsible for the coordination and enforcement of the provisions of this chapter.

(C) The provisions of this chapter shall be applicable to all that property within the city's zoning jurisdiction.

(Ord. 1002, passed 8-1-06)

§ 154.02 INCORPORATION BY REFERENCE.

For the purpose of this chapter, the Omaha Regional Stormwater Design Manual, in its most current form, is incorporated by reference.

(Ord. 1002, passed 8-1-06)

§ 154.03 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning, including Low Impact Development techniques.

BEST MANAGEMENT PRACTICES (BMPs). Pollution control practices designed and carried out to reduce the pollutants contained in discharges.

BUILDING DRAIN. That part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

CBO. The Chief Building Official for the city or his/her authorized agent or representative.

CITY. City of La Vista.

CLEAN WATER ACT. The Federal Water Pollution Control Act, which was enacted in 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, and construction storm water discharges under the NPDES Program.

COMMERCIAL ACTIVITY. Any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26(b)(14) as of the date of this chapter, involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non-professional services.

CONSTRUCTION ACTIVITY. Any clearing, grading, or excavation that results in soil disturbance. **CONSTRUCTION ACTIVITY** also includes, but is not limited to, construction, repairs, dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.

DIRECTOR. The Director of the Public Works Department for the City of La Vista his/her authorized agent or representative.

DISCHARGE. Any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance to the municipal storm sewer system.

HAZARDOUS SUBSTANCE. Any substance designated under 40 CFR Part 116 pursuant to section 311 of the Clean Water Act.

ILICIT CONNECTION. Any human made conveyance that is directly or indirectly connected to the municipal separate storm sewer system and allows for an illicit discharge.

ILICIT DISCHARGE. Any discharge to the municipal separate storm sewer system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. **ILICIT DISCHARGE** includes all non-storm water discharges except discharges pursuant to a NPDES

permit or conditionally exempted by ordinance and include those prohibited in §§ 154.04 and 154.11.

ILLICIT DISPOSAL. Any disposal, either intentional or unintentional, of material(s), substance(s), or waste(s) that has the potential to pollute runoff unless otherwise allowed by law.

INDUSTRIAL ACTIVITY. Any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26(b)(14) as of the date of this ordinance.

LOW IMPACT DEVELOPMENT (LID). De-centralized management of precipitation that would otherwise be stormwater runoff, utilizing design techniques that infiltrate, filter, store, evaporate, or temporarily detain stormwater.

INDUSTRIAL/COMMERCIAL FACILITY. Any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Code (SIC).

MAXIMUM EXTENT PRACTICABLE. A standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking into account equitable consideration of competing factors, including, but not limited to the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

MUNICIPAL STORM SEWER SYSTEM. Any pipe, ditch or gully, or system of pipes, ditches, or gullies, that is owned or operated by the city and used for collecting and conveying storm water.

NEW DEVELOPMENT. Land-disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces; and land subdivision.

NON-STORM WATER RUNOFF. Any discharge to the municipal storm sewer system that is not composed entirely of storm water.

NPDES. The National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

NUISANCE. Any nuisance as defined in § 92.15 of this code and also as defined under **PUBLIC NUISANCE**.

POLLUTANT. The same as defined in section 502(6) of the Clean Water Act including, but are not limited to the following, but does not include uncontaminated storm water, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility.

(1) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);

(2) Metals and non-metals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);

(3) Petroleum hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);

- (4) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna of the state;
- (5) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);
- (6) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;
- (7) Any domestic or industrial wastewater;
- (8) Any hazardous substance.

PRIVATE STORM WATER CONVEYANCE SYSTEM. A storm water conveyance system that is not owned or maintained by the city including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the city's storm water system.

PUBLIC NUISANCE. Any discharge in violation of the provisions of this chapter, a wastewater discharge permit, or an order of the City Council.

RECEIVING WATERS. All surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation ditches, gullies or channels, drainage systems, and all other bodies or accumulation of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the extraterritorial jurisdiction of the city.

RUNOFF. Any storm water or non-storm water discharges from a drainage area that enters the municipal storm sewer system. The term **RUNOFF** is interchangeable with the term **URBAN RUNOFF**.

SANITARY SEWAGE. Liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions.

SEPARATE STORM SEWER. Pipe or conduit, which by designation of the Director, carries only storm water runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by ordinance.

SIGNIFICANT REDEVELOPMENT.

(1) Land-disturbing activity that results in the creation, addition or replacement of at least 5,000 square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition:

- (a) The expansion of a building footprint;
- (b) Addition or replacement of a structure;
- (c) Replacement of impervious surface that is not part of a routine maintenance activity; and
- (d) Land-disturbing activities related to structural or impervious surfaces.

(2) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan required by the State of Nebraska under either the general permit for storm water discharges or an individual NPDES permit, which includes requirements for stormwater discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of storm water discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in storm water discharges.

STORM WATER RUNOFF. That part of natural precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the municipal storm sewer system.

STREET WASH WATER. The water and the associated debris resulting from the washing of streets and/or sidewalks.

URBAN RUNOFF. Any storm water and non-storm water runoff from developed land in, or adjacent to, any municipality.

U.S. EPA. The United States Environmental Protection Agency.
(Ord. 1002, passed 8-1-06)

§ 154.04 ILLICIT DISCHARGES PROHIBITED.

(A) No person shall cause the discharge of non-storm water runoff to enter the municipal separate storm sewer system unless the discharge is one of the following:

- (1) Authorized by a NPDES permit issued by EPA, or NDEQ;
- (2) Caused by or resulting from one of the following:
 - (a) Firefighting activities, where such discharges or flows contain no significant sources of pollutants;
 - (b) Landscape irrigation;
 - (c) Diverted stream flows;
 - (d) Rising ground waters;
 - (e) Uncontaminated ground water infiltration, as defined at 40 CFR 35.2005(20);
 - (f) Uncontaminated pumped ground water;
 - (g) Discharges from potable water sources;
 - (h) Foundation drains;
 - (i) Air conditioning condensation;
 - (j) Irrigation water;
 - (k) Springs;
 - (l) Water from crawl space pumps;

- (m) Footing drains;
- (n) Lawn watering;
- (o) Individual residential car washing;
- (p) Flows from riparian habitats and wetlands;
- (q) Dechlorinated swimming pool discharges;
- (r) Street wash water.

(3) Authorized by the City of La Vista.

(B) All exempt discharges, as listed above, must be in conformance with all other provisions of this code.

(Ord. 1002, passed 8-1-06)

§ 154.05 PROHIBITION OF ILLICIT CONNECTIONS.

No person shall install, maintain, or use any connection to the municipal separate storm sewer system that may result in an illicit discharge to the municipal storm sewer system. All connections to the municipal storm sewer system that provide for an illicit discharge from inside a building are prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. For illicit connections made in the past, a plan to remedy the illicit connection shall be submitted to the Director or CBO.

(Ord. 1002, passed 8-1-06)

§ 154.06 REMOVAL OF ILLICIT CONNECTION.

If any person fails to disconnect an illicit connection upon 30-day prior notification by the CBO or Director, the CBO or Director may cause the removal of such connection from the municipal storm sewer system. The city may pursue the recovery of costs by appropriate means including a suit at law against the person or persons responsible for such disconnection.

(Ord. 1002, passed 8-1-06)

§ 154.07 PRIVATE STORM WATER CONVEYANCE SYSTEMS.

(A) The owner of a property where a private storm water conveyance system is located shall be responsible for the maintenance and repair, and proper operation of the private storm water conveyance system, regardless of whether the private storm water conveyance system is completely located on the private property or partially within the public right-of-way. The city shall have no responsibility or obligation for the maintenance, repair, or proper operation of a private storm water conveyance system.

(B) If the CBO or Director determines that a private storm water conveyance system is not operating properly and causes the improper discharge of storm water to the street, sidewalk or municipal storm sewer system, the CBO or Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with § 154.04.

(Ord. 1002, passed 8-1-06)

§ 154.08 DISCHARGE OF SANITARY SEWAGE PROHIBITED.

No person shall cause discharge of sanitary sewage to the municipal separate storm sewer system. In addition, if the Director determines that a building drain or building sewer is not operating properly and causes the discharge of sewage to the street, sidewalk, or municipal separate storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with § 154.04.

(Ord. 1002, passed 8-1-06)

§ 154.09 DAMAGE TO THE MUNICIPAL STORM SEWER SYSTEM.

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal storm sewer system.

(Ord. 1002, passed 8-1-06)

§ 154.10 WASTE DISPOSAL PROHIBITIONS.

No person shall throw, deposit, place, leave, maintain, litter, keep, or permit to be thrown, deposited, left, maintained or kept any pollutant, refuse, rubbish, food waste, yard waste, garbage, or any other discarded or abandoned objects in or upon any public or private property, driveway, parking area, street, alley, sidewalk, or other location that may result in an illicit discharge to the municipal storm sewer system. Wastes placed in containers protected from urban runoff such as bags, cans, or recycling bins, and city-approved wastes from construction on public right-of-way are exempted from this prohibition.

(Ord. 1002, passed 8-1-06)

§ 154.11 PROHIBITED DISCHARGES FROM INDUSTRIAL/COMMERCIAL ACTIVITIES.

The following list of discharges from industrial/commercial activities shall be considered prohibited unless permitted under a separate NPDES permit or approved by the City Public Works Department. This list is based on § 154.04 regarding illicit discharges prohibited, but is not an exhaustive list of prohibited discharges to the municipal storm sewer system:

- (A) Water from the cleaning of vehicle fueling stations, vehicle service garages, or other types of vehicle service facilities.
- (B) Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations
- (C) Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners.
- (D) Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning.
- (E) Vehicle fluids.
- (F) Mat wash water from food service facilities.
- (G) Food and kitchen cleaning water from food service facilities.
- (H) Leakage from dumpsters or trash containers.
- (I) Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained.
- (J) Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks,

gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces.

(K) Wastewater or cleaning fluids from carpet cleaning.

(L) Swimming pool and spa water.

(M) Wash out from concrete trucks.

(N) Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored.

(O) Super-chlorinated, i.e. greater than four mg/l chlorine, water normally associated with the disinfection of potable water systems.

(Ord. 1002, passed 8-1-06)

§ 154.12 NOTIFICATION OF PROHIBITED DISCHARGES REQUIRED.

(A) In the event of discovery of a discharge to the municipal storm sewer system that is prohibited by this code, the discharger or permittee shall immediately notify the CBO or Director of the incident by telephone, facsimile or e-mail. The notification shall include the discharge location, type of materials discharged, estimated concentration and volume of the discharge, and corrective actions taken to contain or minimize the effects of the discharge.

(B) In addition, a written report, facsimile or e-mail, addressed to the CBO or Director detailing the date, time and cause of the discharge, the quantity and characteristics of the discharge, corrective actions taken to contain or minimize the effects of the discharge, and corrective actions taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the non-complying discharge.

(Ord. 1002, passed 8-1-06)

§ 154.13 GRADING PERMIT REQUIRED.

It shall be unlawful for any person to engage in or cause any grading, clearing, or excavation activities that result in the disturbance of any land areas sufficiently large to require a general NPDES construction site storm water permit, without the property owner, tenant, or easement holder, or their agent, first obtaining a grading permit from the city's Permits and Inspection Division. This section shall not apply to grading performed solely for agricultural purposes.

(Ord. 1002, passed 8-1-06)

§ 154.14 APPLICATION FOR GRADING PERMIT.

(A) Any property owner, or their legally authorized agent, desiring a grading permit shall make an application to the Permits and Inspections Division and the Papillion Creek Watershed Partnership on the forms provided by the CBO.

(B) Any property owner, or their legally authorized agent, desiring a grading permit shall also submit to the city's Permits and Inspection Division a completed NDEQ notice of intent/permit application for coverage under the general NPDES construction site storm water permit. Such permit application shall be made on forms provided by the NDEQ.

(Ord. 1002, passed 8-1-06) (Ord. _____, passed _____)

§ 154.15 GRADING PERMIT FEE.

Before any grading permit application will be accepted by the Permits and Inspection

Division, the applicant shall pay to the city a fee in such amount set from time to time by the Mayor and City Council, and a current record of such amount shall be maintained by the City Clerk.

(Ord. 1002, passed 8-1-06)

§ 154.16 ISSUANCE OF GRADING PERMIT.

If, after, examination of the application for a grading permit, the CBO has determined that the proposed plan will meet the requirements of this chapter and if the NDEQ approved the NPDES application for the project, then the Permits and Inspection Division shall issue the grading permit.

(Ord. 1002, passed 8-1-06)

§ 154.17 EROSION AND SEDIMENT CONTROL AT CONSTRUCTION AND DEVELOPMENT SITES.

Provisions for erosion and sediment control at construction and development sites are set forth in the Omaha Regional Stormwater Design Manual. The provisions thereof shall be controlling of all subjects contained therein within the corporate limits and within the jurisdictional area outside the city limits. In the event of any conflict between the provisions of the Omaha Regional Stormwater Design Manual, or any other ordinance, and the provisions of an NPDES permit issued by the State of Nebraska, the provision that imposes the higher or most stringent or most specific practice shall prevail.

(Ord. 1002, passed 8-1-06)

§ 154.18 REQUIREMENT FOR ALL NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS.

Land development and significant redevelopment projects with the potential to add pollutants to storm water or to affect the flow rate or velocity of storm water runoff after construction is completed

must include provisions for the management of the increased post construction runoff in a post-construction storm water management plan.

(Ord. 1002, passed 8-1-06)

§ 154.19 POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.

(A) The post-construction storm water management plan shall be submitted to the City on a form or format specified by the Director as part of any preliminary plat application required in the Subdivision Regulations. Any parcel of land that is to be developed which requires a grading permit, or requires a building permit and creates more than 5,000 square feet of impervious surface, or requires a building permit and meets the definition of Significant Redevelopment, and is not already covered by an approved Post-Construction Storm Water Management Plan (PCSWMP), shall have a PCSWMP applicable to the parcel of land prepared and submitted to the City.

(B) The PCSWMP shall include at a minimum the design, locations, schedules, and procedures for inspection and maintenance of the selected BMPs. Erosion and sediment control BMPs during the construction process are to be addressed in the grading permit documents. The BMPs for the PCSWMP shall include the reduction of stormwater peak discharge rates after development of the subject parcel to pre-development conditions for the 2-year return frequency storm event measured at every drainage outlet (stormwater discharge) and shall include Low Impact Development (LID) BMPs to provide for water quality improvements in the first one-half inch of runoff from the site. Refer to the Omaha Regional Storm Water Design Manual for information on BMPs and to the Papillion Creek Watershed Partnership web site for information

on post construction storm water management plan contents. For significant redevelopment sites, the calculation of the area requiring control of the first one-half inch of runoff shall be based only on the impervious area of the project site that is being added or replaced.

(Ord. 1002, passed 8-1-06) (Ord. No. _____, passed Feb. 17, 2009)(Ord. _____, passed _____)

§ 154.20 EXEMPTIONS FROM THE POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.

Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit is not part of a larger common plan of development or sale, are exempt from the requirements in this chapter to submit a post-construction storm water management plan.

(Ord. 1002, passed 8-1-06)

§ 154.21 MAINTENANCE OF POST-CONSTRUCTION BMPs.

(A) The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this chapter shall ensure the maintenance of these BMPs and shall themselves maintain those BMPs if other persons or entities who are also obligated to maintain those BMPs (by contract or covenant, or pursuant to this chapter) fail to do so. Structural BMPs shall be inspected at least annually, and a written record of inspection results and any maintenance work shall be maintained and available for review by the city.

(B) The responsibility to maintain a BMP may be transferred through a contract or other agreement. The person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP pursuant to this chapter. However, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this chapter.

(C) The maintenance agreement shall require the applicant or owner to execute an inspection and maintenance agreement, to be filled of record, binding on all subsequent owners of land served by a private storm water management facility. Such agreement shall provide for access to the facility, at reasonable times, for inspections by the city or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

(D) The applicant and/or owner shall record the maintenance agreement with the Register of Deeds.

(E) The maintenance agreement shall also provide that if after notice by the city to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or occupant within a reasonable period of time (30 days maximum), the city may perform all necessary work to place the facility in proper working condition. The owner(s) or occupant of the facility shall be assessed the cost of the work and any lawful penalties.

(Ord. 1002, passed 8-1-06)

§ 154.22 ADMISSION TO PROPERTY.

(A) Whenever it shall be necessary for the purposes of these rules and regulations, the CBO or Director, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of:

- (1) Copying any records required to be kept under the provisions of this chapter;
- (2) Inspecting any BMPs; and

(3) Sampling any discharge to the municipal storm sewer system.

(B) The CBO or Director may enter upon the property at any hour under emergency circumstances. The authority to so inspect, sample and copy records shall be limited to only those things, and only the extent, that it has a direct bearing on the kind and source of discharges into the municipal storm sewer system.

(Ord. 1002, passed 8-1-06)

§ 154.23 REGULATORY ACTIONS.

If substances in violation of § 154.04 are discharged or proposed to be discharged into the municipal storm sewer system of the city or any tributary thereto, the city may take action necessary to:

- (A) Prohibit the discharge of such effluent;
- (B) Require a discharger to demonstrate that modifications to such discharger's facilities will reduce or eliminate the discharge of such substances in conformity with this chapter;
- (C) Require pretreatment, including storage, detention or retention facilities necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these prohibitions and limitations;
- (D) Require the person making, causing, or allowing the discharge to pay an additional cost or expense incurred by the city for taking remedial actions as may be deemed to be desirable or necessary to achieve the purpose of this chapter;
- (E) Require any combination or all of the above.

(Ord. 1002, passed 8-1-06)

§ 154.24 NOTICE OF VIOLATION; CORRECTION OF VIOLATIONS.

Whenever the Chief Building Official or Public Works Director finds that any person has violated or is violating this chapter or any prohibition, limitation or requirement contained herein, such person shall be notified in writing.

(Ord. 1002, passed 8-1-06)

§ 154.25 PENALTY; RECOVERY OF DAMAGES.

Any person who is found to have violated an order provided for in this chapter, or who willfully or negligently failed to comply with any provisions of this chapter and the rules and regulations issued hereunder, shall be deemed guilty of a misdemeanor and shall be fined an amount that does not exceed \$500 under this chapter. Each day any such violation or failure to perform such act shall continue, shall constitute a separate offense, unless otherwise specifically provided. Except as prohibited by the state of federal constitutions, a prosecution under this chapter, shall not be the exclusive penalty for such acts or omissions.

(Ord. 1002, passed 8-1-06)

§ 154.26 ADDITIONAL RULES AND REGULATIONS.

The Director may make rules and regulations, which expand upon or add to the provisions of this chapter but are not inconsistent with them. Prior to taking effect, such rules and regulations, or any amendments thereto, shall be approved by resolution of the City Council. A copy of such rules and regulations, with any current amendments, shall be on file with the City Clerk.

(Ord. 1002, passed 8-1-06)

§ 154.27 APPEALS.

Any person aggrieved by the issuance, denial, suspension, cancellation, modification, or revocation of any permit provided for in this chapter or by any other order of the CBO or Director, may within ten days of the receipt of written notice of the entry of such order, submit a written appeal to the City Council at their next regularly scheduled meeting.

(Ord. 1002, passed 8-1-06)

§ 154.28 CONFLICTS WITH OTHER CODE SECTIONS.

The provisions of this chapter shall control over any inconsistent or conflicting provision of this code of ordinances.

(Ord. 1002, passed 8-1-06)

§ 154.29 PAPILLION CREEK WATERSHED MANAGEMENT FEES

- (A) Through an Interlocal Cooperation Act Agreement, the City has participated in the Papillion Creek Watershed Partnership to draft six policies and a map-based Papillion Creek Watershed Plan and a shorter term Papillion Creek Watershed Implementation Plan.
- (B) It is expected the policies and plans in the Papillion Creek Watershed Plan will continue to be refined and amended. Specifically, the Papillion Creek Watershed Partnership intends to review the needs for regional detention structures and water quality basins on approximately a three year interval to provide updates to the Papillion Creek Watershed Implementation Plan.
- (C) In accordance with the adopted Interlocal Cooperation Act Agreement for the Papillion Creek Watershed Partnership, Watershed Management Fees shall be collected from new developments and significant redevelopment requiring a subdivision agreement and located wholly or in part in the Papillion Creek Watershed to provide funding for construction of regional detention structures and water quality basins contained in the Papillion Creek Watershed Plan. However, any parcel of property for which similar Watershed Management Fees have been collected previously will not be required to again contribute the fees as the result of a subsequent redevelopment. Through the terms of an Interlocal Cooperation Act Agreement, as may be amended from time to time, the City shall transfer such fees to the Papio-Missouri River Natural Resource District, which will be responsible for the construction of regional detention structures and water quality basins in accordance with the Papillion Creek Watershed Implementation Plan, as may be amended from time to time.
- (D) The Watershed Management Fees required under this division shall be specified in all subdivision agreements executed after the effective date of this ordinance and shall be collected for each parcel, the amount to be computed at the time of issuance of the first building permit for each parcel in a development. The Watershed Management Fees specified in an approved subdivision agreement shall not change as long as such plat remains in effect. The Watershed Management Fee framework or rates may be changed during the buildout of a particular subdivision, but any similar rates specified in a valid subdivision agreement shall remain fixed at those prevailing at the time the subdivision agreement was approved.
- (E) **SCHEDULE OF CHARGES**
 - (1) Based upon the recommendations of the Papillion Creek Watershed Partnership and consistent with the terms of an Interlocal Cooperation Act Agreement with the Papio-Missouri River Natural Resources District, the rates for Watershed Management Fees shall be as set forth in the City of La Vista Master Fee Schedule, as amended from time to time.
 - (2) The Watershed Management Fees are in addition to all other sewer connection or use fees provided for elsewhere in this Code.

SECTION 2. Repeal of Sections 154.01 through 154.28 as Previously Enacted. Sections 154.01 through 154.28 of the La Vista Municipal Code as previously enacted is hereby repealed.

SECTION 3. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this ordinance and each section, subsection, sentence clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS 16TH DAY OF FEBRUARY 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

POST CONSTRUCTION STORM WATER MANAGEMENT PLAN
 APPLICATION MATRIX FOR CITY OF LA VISTA
 PREPARED DEC. 11, 2009, REVISED JAN. 8, 2010

REQUIREMENT

DEVELOPMENT TYPE

PCSWMP that includes low impact development BMPs that provide water quality control of the first one-half inch of runoff from the site and

maintain pre-development peak flows for storm water runoff from 2-yr storm events at each and every discharge location from the site.

1) For all developments with a preliminary plat approved by City Council on or after Oct. 6, 2009

OR

2) For any replat on or after Oct. 6, 2009, in a subdivision approved by City Council before Oct. 6, 2009 that significantly increases the amount of impervious area as determined by the City

PCSWMP that includes BMPs and, where reasonably practical, provide water quality control of the first one-half inch of runoff from the site and

maintain pre-development peak flows for storm water runoff from 2-yr storm events at each and every discharge location from the site

1) For all developments with a preliminary plat approved by City Council before Oct. 6, 2009

OR

2) For all development or significant redevelopment that disturbs 1 acre or more and does not require preliminary platting

PCSWMP that includes BMPs and

maintain pre-development peak flows for storm water runoff from 2-yr storm events at each and every discharge location from the site

Significant redevelopment that adds or replaces less than 1 acre but more than 5,000 square feet of impervious area. This includes:

- 1) The expansion of a building footprint
- 2) Addition or replacement of a structure
- 3) Replacement of impervious Surface that is not part of a Routine maintenance activity
- 4) Land disturbing activities related

To structural or impervious surface

Footnotes:

1. This matrix is based upon a matrix prepared by the City of Omaha by Selma Kessler received by TD2 in an e-mail dated Nov. 18, 2009.
2. Water quality definition is needed and should be prepared by the PCWP for uniformity.
3. Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency redevelopment activity required to protect public health and safety.
4. Development is any construction requiring a building permit or grading permit.
5. The conceptual PCSWMP is required to be prepared as part of any preliminary plat application. The final PCSWMP and Maintenance Agreement is required to be prepared as part of any final plat, grading permit or building permit application.

3.02.07 Approval of a preliminary plat shall not constitute approval of the final plat. Rather, the preliminary plat shall be deemed an expression of approval of the general design concept and serves as an acceptable guide for the preparation of the final plat. Approval of the preliminary plat shall become void after twelve (12) months from the date of such approval by City Council. The City Council can provide for an extension, however such extension shall not exceed one year. If no final plat has been filed or a final plat of previously proposed phases has not been filed within the original twelve (12) months, or by the end of the extension, the preliminary plat will become void.

Section 3.03 Preliminary Plat Specifications.

The preliminary plat shall be drawn to a scale of at least one (1") inch to one hundred (100) feet with a sheet size not to exceed 42"x30" and shall be plainly marked "preliminary plat" and shall include, show, or be accompanied by the following information:

3.03.01 A location map showing the general location of the proposed subdivision in relation to surrounding developments with a north arrow, scale and legend.

3.03.02 Both existing and proposed grades shall be shown.

3.03.03 Phasing lines shall be delineated on the plat and a phasing schedule, if developed in phases.

3.03.04 The proposed name of the subdivision which must not be so similar to that of an existing subdivision as to cause confusion.

3.03.05 The proposed names and addresses of the owner and subdivider; the engineer or surveyor, responsible (all of which are licensed to practice in Nebraska) for the subdivision layout; and the names of all landowners abutting the proposed subdivision.

3.03.06 The legal description of the area being platted, and boundary line (accurate in scale) and dimensions, and the location of monuments found or set, section lines, existing and the approximate acreage of the proposed development.

3.03.07 Width and location of platted streets and alleys within 200 feet of the property; physical features of the property, including location of water courses, ravines, bridges, culverts, present structures and other features affecting the subdivision; contours with intervals of five (5') feet or less; the location of all existing utilities with their sizes indicated, as well as flow lines; elevations of existing sanitary and storm sewer, the outline of wooded areas (the location of important individual trees may be required).

3.03.08 Location and name(s) of adjoining subdivision(s) or undeveloped land and owners and persons having ownership interest within 300 feet of the subject property (not including streets and right-of-ways). This should be prepared by a title company and submitted in list form and as mailing labels.

3.03.09 The proposed lot layout, lot and block numbers and approximate lot dimensions and square footage and grounds proposed to be dedicated for public use, such as schools, parks, pathways, playgrounds and streets.

3.03.10 The location and width of proposed streets, all easements including buffer easements, building setback lines, rights-of-way, corner radii, pavement width, thickness and type, sidewalks, alleys, location of all proposed improvements including: sanitary sewers, water mains, storm water drainage and other features and improvements required by this ordinance.

3.03.11 Easements for public utility and rights-of-way purposes. The book and page number of existing easements shall be labeled on the plan and any private easements should be labeled as such.

3.03.12 Both existing and proposed grades shall be shown.

3.03.13 All established floodway, floodway-fringe, and flood plain overlay lines.

3.03.14 The existing zoning classification and proposed uses of land within the proposed subdivision shall also be designated.

3.03.15 ~~Three (3) draft copies of the subdivision agreement with attached itemized cost estimate for all public improvements and detailed break down of portion of estimated costs to be borne by subdivider and those to be borne by the City, S.I.D. or other proposed issuer of public debt. Six (6) draft copies of a subdivision agreement with itemized cost estimates for infrastructure improvements with proposed allocation of costs between sources of funding, letter size exhibits setting forth size and location of infrastructure improvements, and two (2) copies of full-size exhibits setting forth size and location of infrastructure improvements. The draft subdivision agreement shall include a statement of the estimated Storm Water Management Fees in accordance with Chapter 154 of the La Vista Municipal Code to be generated through ultimate development of the subdivision. Draft subdivision agreements shall be required when the proposed subdivision will include public and/or private,~~

shared (common area) infrastructure improvements. Draft subdivision agreements may be required in other cases as determined by the City.

(Ord. _____, passed _____)

- 3.03.16 Three (3) copies of an erosion control plan.
- 3.03.17 Requests for waivers of design standards.
- 3.03.18 The subdivider or subdivider's representative shall be in attendance at the City Planning Commission and City Council Meetings when the preliminary plat (displayed in duplicate) is discussed.
- 3.03.19 Traffic impact analysis study may be required by the city engineer.
- 3.03.20 Four copies of the following documents are to be submitted to the City for review at the time of the preliminary plat submittal:

- 1. A sanitary sewer plan.
- 2. A surface storm drainage plan including provisions for control of the first 0.5 inches of runoff from the site. A surface storm drainage plan including provisions to provide water quality improvements to the first one-half inches (0.5") of runoff from the site and to reduce stormwater discharge rates after development of the site to pre-development conditions for the 2-year return frequency storm event measured at every drainage outlet (stormwater discharge).
(Ord. _____, passed _____)
- 3. A street profile plan with a statement of proposed street improvements.
- 4. A Post-Construction Storm Water Management Plan, as provided in Chapter 154 of the La Vista Municipal Code, with a proposed implementation schedule or sequence of phased construction, and proposed maintenance, inspection and operation procedures for the proposed BMP's. A draft Maintenance Agreement and Easement shall be included with this submittal. (Ord. _____, passed _____) (Ordinance 1084, 2-17-09)

Section 3.04 Procedure for Approval of Final Plat.

- 3.04.01 The final plat shall conform to the preliminary plat as approved and may be comprised of only that portion of the approved preliminary plat which the subdivider proposed to record and develop at the time.
- 3.04.02 The final plat shall be submitted in accordance with the review schedule to the city for Planning Commission and City Council review.
- 3.04.03 Thirty-five (35) full sized copies and thirty-five (35) 11 x17 (folded) copies of the final plat and required supplementary material as specified in Section 3.05 of this ordinance shall be submitted to the City of La Vista Community Development Department in accordance to the review schedule.
- 3.04.04 Upon approval of the final plat, a certification of approval by the City shall be endorsed thereon by the mayor and the Planning Commission chair, and the original shall be filed with the Sarpy County Register of Deeds, the reproducible copy with the city clerk, and the two (2) copies of the original with the Community Development Department.
- 3.04.05 Final approval by the City Council shall be by resolution after receiving the recommendation of the Planning Commission.
- 3.04.06 The final plat will be filed with the register of deeds within one year of the City Council's approval. Evidence of such shall be submitted to the City by the subdivider or appointed representative.

and transmission of electric current for light, heat, and power and for the transmission of signals and sounds of all kinds and the reception on, over, through, under and across a five-foot wide strip of land abutting all front and side boundary lot lines, and eight-foot wide strip of land abutting the rear boundary lines of all interior lots, and a 16-foot wide strip of land abutting the rear boundary lines of all exterior lots. The term "exterior lots" is herein defined as those lots forming the outer perimeter of the above-described addition. Said 16-foot wide easement will be reduced to an eight-foot wide strip when the adjacent land is surveyed, platted and recorded. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the afore-said uses or rights herein granted.

Perpetual easements shall be granted to Metropolitan Utilities District of Omaha, Aquila, and their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five-foot-wide strip of land abutting all cul-de-sac streets. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not, then or later, interfere with the afore-said uses or rights herein granted.

Section 4.18 Design Standards: Storm Sewer System.

Provisions shall be made to limit the peak rate of storm water discharge from the subdivision. Post development runoff (cubic feet per second) shall not exceed 1.25 times the pre-development runoff rate at any time following post development, based upon a 10-year storm event. Pre-development shall be the condition prior to improvements being completed, including cultivated row crops. In determining the size or type of storm sewer system the design shall be sufficient to handle the computed runoff at the point in question. For large drainage areas, the City may require cross drainage structures such as culverts, bridges, etc. The City may require retention or detention basins in order to control post-development run-off.

The storm sewer system shall be designed in accordance with the Omaha Regional Storm Water Design Manual, Papillion Creek Watershed Plan, and Chapter 154 of the City of La Vista Municipal Code all as amended from time to time. In addition, provisions shall be made to limit the 10-year peak rate of storm water discharge from the subdivision. Post-development peak runoff rate shall not exceed 1.25 times the pre-development runoff rate at any time following post-development based upon a 10-year storm event. Pre-development shall be the condition prior to improvements being completed, including agricultural uses. For single family subdivisions, storm water management facilities should be community-based in outlots rather than on individual private lots.

(Ord. _____, passed _____)

Section 4.19 Design Standards: Sanitary Sewer System.

Design standards for sanitary sewers shall conform to Nebraska Department of Environmental Quality Standards.

Section 4.20 Design Standards: Sidewalks.

All sidewalks within subdivisions shall have a minimum pavement width of four feet and minimum pavement thickness of six inches along major or other arterials and four inches everywhere else, all of which shall be located within the right-of-way not directly abutting any street.

Section 4.21 Design Standards: Flood Hazards.

Land subject to flooding and land deemed to be topographically unsuitable for residential or other development shall not be platted for such purposes. Such land may be set aside on the plat for such uses compatible with the hazards associated with flooding or erosion. All development shall be flood proof in accordance with the flood hazard zoning provisions of the Zoning Ordinance.

Section 4.22 Design Standards: Creek Setback.

No person shall be granted a permit for the construction of any structure, exclusive of bank stabilization structures, adjacent to any creek or stream unless such structure is located so that no portion thereof is any closer to the stream than will allow a maximum three-to-one slope plus 20 feet between the water's edge of the stream and the closest point on the structure at grade. **For those creeks or streams designated in the Papillion Creek Watershed Plan, the setback shall be increased to allow a maximum three-to-one slope plus 50 feet between the water's edge of the stream and the closest point on the structure at grade.** As used herein, the edge of the water of the stream shall be the point constituting the edge

of the water during normal flow conditions.

(Ord. _____, passed _____)

A property shall be exempt from the before mentioned provisions upon a showing by a registered professional engineer that adequate bank stabilization structures or slope protection will be installed in the construction of said structure, having an estimated useful life equal to that of the structure, which will provide adequate erosion control conditions coupled with adequate lateral support so that no portion of said structure adjacent to the stream will be endangered by erosion or lack of lateral support. In the event that the structure is adjacent to any stream which has been channelized or otherwise improved by any agency of government, then such certification providing an exception to the before mentioned may take the form of a certification to the adequacy and protection of the improvements installed by such governmental agency.

Prior to work on or near any watercourses all the necessary permits must be obtained from the Army Corps of Engineers or any other governmental agencies.

Section 4.23 Design Standards; Conformance with Other Regulations.

No final plat of land within the City or its jurisdictional area shall be approved unless it conforms with existing zoning regulations unless waived by the Planning Commission and City Council in accordance with this ordinance. Whenever there is a variance between the minimum standards set forth in this ordinance and those contained in other regulations, the most restrictive standard shall govern.

the street and sidewalk at a point approximately six (6) inches from said sidewalk or its intended location. Whenever possible street signs shall be installed on street utility poles.

5.05.02. The developer shall provide and install street lights at each entrance (street or sidewalk) into a subdivision and at each street intersection within the subdivision and at such intermediate points as necessary, as specified by Omaha Public Power District, subsequent providers, and city engineer.

5.05.03. New subdivision lighting and electrical power shall be underground wiring and easements for such wiring shall be indicated on the plat. All underground wiring shall meet proper specifications for installation.

5.05.04. All hydrants will be located at a maximum of 450-foot intervals, unless otherwise authorized by the City. The layout and flow design must meet the minimum requirements as set forth by the City.

5.05.05. Mailboxes owned and serviced by the post office shall be clustered whenever possible and coordinated through the city engineer to be consistent with future parking restrictions.

5.05.06. Gas mains shall be installed at the direction of the city engineer.

Section 5.06 Required Improvements; Landscape Screens.

Landscape screens as required by the City shall be installed at the subdivider's expense as a buffer for the protection of residential properties along major streets, railroad rights-of-way, and land uses which are substantially different from that proposed in the subdivision. Such screen shall be installed prior to the issuance of a certificate of occupancy.

Section 5.07 Required Improvements; Drainage.

A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water of the subdivision and the drainage area of which it is a part. **The storm sewer system shall be designed in accordance with the Omaha Regional Storm Water Design Manual, the Papillion Creek Watershed Plan, and Chapter 154 of the City of La Vista Municipal Code, all as amended from time to time.** In addition **p**rovisions shall be made to limit the peak rate of storm water discharge from the subdivision. Post development runoff (cubic feet per second) shall not exceed 1.25 times the predevelopment runoff rate at any time following post-development, based upon a 10-year storm event. **Pre-development shall be the condition prior to improvements being completed, including agricultural uses. For single family subdivisions, storm water management facilities should be community-based in outlots rather than on individual private lots.** Storm Sewer shall be constructed and installed to provide adequate drainage in accordance with **any supplemental** recommendations of the city engineer. In addition, the developer shall submit, a drainage report prepared by a registered professional engineer as to the existing and proposed drainage conditions. A preliminary report shall be included with the preliminary plat. The final report shall be attached to the final plat and shall include an evaluation of the ability of the proposed water courses, drainage tiles, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the run-off which would be generated by the development of the land within and above the subdivision and the impacts of such drainage on downstream drainage systems.

5.07.01 The preliminary plat report shall include:

1. Preliminary estimates of the quantity of storm water entering the subdivision naturally and upon full development of lots within the subdivision for 10-year and 100-year frequency storm events.
2. Existing conditions of the watershed that may affect the proposed subdivision, such as soil type, drainage channels, obstructions and the like.
3. A preliminary grading plan illustrating proposed drainage management.

5.07.02 The final plat drainage report shall contain:

1. Calculations of the quantity of storm water entering the subdivision naturally and estimates of such storm water upon full development within the subdivision based on the proposed zoning.
2. Quantities of flow at each pick-up point.
3. Estimates and type of temporary erosion control measures necessary to control erosion during construction.
4. A description of an adequate drainage system within the subdivision and its design capacities based on a ten (10) year storm and capacities at critical points for 100-year frequency storm events.

5.07.03 **Drainage Requirements.** The subdivider shall provide adequate drainage facilities within the subdivision including storm sewers upon recommendation of the city engineer. If storm sewers are not necessary all open ditches shall be graded and all pipes, culverts, intersection drains, drop inlets, bridges, headwalls, gutters and similar or related installations necessary to provide adequate surface water drainage shall be constructed and

CHAPTER 154: STORM WATER MANAGEMENT REGULATIONS

CHANGES IN THIS FONT REFLECT FEB. 17, 2009 ORDINANCE CHANGES

CHANGES IN THIS FONT REFLECT PROPOSED CHANGES AS OF JAN. 14, 2010

Section

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§ 154.01 PURPOSE AND AUTHORITY.

- (A) The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and

general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased and altered storm water runoff. Proper management of storm water runoff will minimize damage to public and private property, reduce the harmful effects of development on land, control stream channel erosion, reduce local flooding, and maintain after development, as nearly as possible, the pre-development runoff characteristics.

(B) The application of this chapter and provisions expressed herein shall be the minimum storm water management requirements and shall not be deemed a limitation on such management practices. The city shall be responsible for the coordination and enforcement of the provisions of this chapter.

(C) The provisions of this chapter shall be applicable to all that property within the city's zoning jurisdiction.

(Ord. 1002, passed 8-1-06)

§ 154.02 INCORPORATION BY REFERENCE.

For the purpose of this chapter, the Omaha Regional Stormwater Design Manual, in its most current form, is incorporated by reference.

(Ord. 1002, passed 8-1-06)

§ 154.03 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning, *including Low Impact Development techniques*.

BEST MANAGEMENT PRACTICES (BMPs). Pollution control practices designed and carried out to reduce the pollutants contained in discharges.

BUILDING DRAIN. That part of the lowest horizontal piping of a wastewater drainage system that receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning two feet outside the inner face of the building wall.

CBO. The Chief Building Official for the city or his/her authorized agent or representative.

CITY. City of La Vista.

CLEAN WATER ACT. The Federal Water Pollution Control Act, which was enacted in 1972 to prohibit the discharge of pollutants to receiving waters of the United States and later amended in 1987, to establish a framework for regulating municipal, industrial, and construction storm water discharges under the NPDES Program.

COMMERCIAL ACTIVITY. Any public or private activity not defined as an industrial activity in 40 Code of Federal Regulations (CFR) 122.26(b)(14) as of the date of this chapter, involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or non-professional services.

CONSTRUCTION ACTIVITY. Any clearing, grading, or excavation that results in soil disturbance. **CONSTRUCTION ACTIVITY** also includes, but is not limited to, construction, repairs, dewatering, remodeling, building, and emergency construction activities required to immediately protect public health and safety.

DIRECTOR. The Director of the Public Works Department for the *City of La Vista* his/her authorized agent or representative.

DISCHARGE. Any release, spill, leak, pump, flow, escape, dumping, or disposal of any liquid, semi-solid, or solid substance to the municipal storm sewer system.

HAZARDOUS SUBSTANCE. Any substance designated under 40 CFR Part 116 pursuant to section 311 of the Clean Water Act.

ILICIT CONNECTION. Any human made conveyance that is directly or indirectly connected to the municipal separate storm sewer system and allows for an illicit discharge.

ILICIT DISCHARGE. Any discharge to the municipal separate storm sewer system that is prohibited under local, state, or federal statutes, ordinances, codes, or regulations. **ILICIT DISCHARGE** includes all non-storm water discharges except discharges pursuant to a NPDES permit or conditionally exempted by ordinance and include those prohibited in §§ 154.04 and 154.11.

ILICIT DISPOSAL. Any disposal, either intentional or unintentional, of material(s), substance(s), or waste(s) that has the potential to pollute runoff unless otherwise allowed by law.

INDUSTRIAL ACTIVITY. Any public or private activity which is associated with any other of the 11 categories of activities defined in 40 CFR 122.26(b)(14).*as of the date of this ordinance.*

LOW IMPACT DEVELOPMENT (LID). *De-centralized management of precipitation that would otherwise be stormwater runoff, utilizing design techniques that infiltrate, filter, store, evaporate, or temporarily detain stormwater.*

INDUSTRIAL/COMMERCIAL FACILITY. Any public or private facility involved and/or used in the production, manufacture, storage, transportation, distribution, exchange or sale of goods and/or commodities, or any facility involved and/or used in providing professional services. This category of facility includes but is not limited to, any facility defined by a Standard Industrial Code (SIC).

MAXIMUM EXTENT PRACTICABLE. A standard for implementation of storm water management programs to reduce pollutants in storm water. It is the maximum extent possible taking

into account equitable consideration of competing factors, including, but not limited to the seriousness of the problem, public health risk, environmental benefits, pollutant removal effectiveness, regulatory compliance, ability to implement, cost and technical feasibility.

MUNICIPAL STORM SEWER SYSTEM. Any pipe, ditch or gully, or system of pipes, ditches, or gullies, that is owned or operated by the city and used for collecting and conveying storm water.

NEW DEVELOPMENT. Land-disturbing activities; structural development, including construction or installation of a building or structure, the creation of impervious surfaces; and land subdivision.

NON-STORM WATER RUNOFF. Any discharge to the municipal storm sewer system that is not composed entirely of storm water.

NPDES. The National Pollutant Discharge Elimination System and is implemented and enforced by a permit issued by the U.S. Environmental Protection Agency, or the Nebraska Department of Environmental Quality (NDEQ) pursuant to the Clean Water Act that authorizes discharges to waters of the United States and requires the reduction of pollutants in the discharge.

NUISANCE. Any nuisance as defined in § 92.15 of this code and also as defined under **PUBLIC NUISANCE**.

POLLUTANT. The same as defined in section 502(6) of the Clean Water Act including, but are not limited to the following, but does not include uncontaminated storm water, potable water, groundwater, or reclaimed water by a lawfully permitted water treatment facility.

(1) Materials (including but not limited to fuels, solvents, chemical, detergents, plastic, pellets, hazardous substances, radioactive wastes, fertilizers, pesticides, paints, soot, slag, ash, sludge);

(2) Metals and non-metals both soluble and insoluble (including but not limited to cadmium, lead, zinc, copper, silver, nickel, chromium, chlorine, phosphorous, and arsenic);

(3) Petroleum hydrocarbons (including but not limited to fuels, oils, lubricants, surfactants, waste oils, solvents, coolants, and grease);

(4) Eroded soils, sediment, and particulate materials in amounts, which may adversely affect the beneficial use of the receiving waters, flora, or fauna of the state;

(5) Animal wastes (including but not limited to discharge from confinement facilities, kennels, pens, recreational facilities, and stables);

(6) Substances having acidic or corrosive characteristics, unusual coloration or turbidity;

(7) Any domestic or industrial wastewater;

- (8) Any hazardous substance.

PRIVATE STORM WATER CONVEYANCE SYSTEM. A storm water conveyance system that is not owned or maintained by the city including any instrumentality that drains or conveys water from a building or from/through one or more properties to the environment or the city's storm water system.

PUBLIC NUISANCE. Any discharge in violation of the provisions of this chapter, a wastewater discharge permit, or an order of the City Council.

RECEIVING WATERS. All surface water bodies, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation ditches, gullies or channels, drainage systems, and all other bodies or accumulation of water, natural or artificial, public or private, situated wholly or partly within or bordering upon the extraterritorial jurisdiction of the city.

RUNOFF. Any storm water or non-storm water discharges from a drainage area that enters the municipal storm sewer system. The term **RUNOFF** is interchangeable with the term **URBAN RUNOFF**.

SANITARY SEWAGE. Liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions.

SEPARATE STORM SEWER. Pipe or conduit, which by designation of the Director, carries only storm water runoff, discharges pursuant to a NPDES permit or discharges conditionally exempted by ordinance.

SIGNIFICANT REDEVELOPMENT.

(1) Land-disturbing activity that results in the creation, addition or replacement of at least 5,000 square feet of impervious surface area on an already developed site. Redevelopment includes, but is not limited to the following activities that meet the minimum standards set forth in this definition:

(a) The expansion of a building footprint;

(b) Addition or replacement of a structure;

(c) Replacement of impervious surface that is not part of a routine maintenance activity; and

(d) Land-disturbing activities related to structural or impervious surfaces.

(2) Redevelopment does not include routine maintenance activities that are conducted to maintain original line and grade, hydraulic capacity, original purpose of facility or emergency

redevelopment activity required to protect public health and safety.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the current edition of the Standard Industrial Classification Manual issued by the Executive Office of the President of the United States, Office of Management and Budget.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A plan required by the State of Nebraska under either the general permit for storm water discharges or an individual NPDES permit, which includes requirements for stormwater discharges associated with either industrial or construction activities. The purpose of the plan is to help identify the sources of pollution that affect the quality of storm water discharges from a site and to describe and ensure the implementation of practices to reduce pollutants in storm water discharges.

STORM WATER RUNOFF. That part of natural precipitation (rainfall or snowmelt, including that of any frozen precipitation), which travels via flow across any surface to the municipal storm sewer system.

STREET WASH WATER. The water and the associated debris resulting from the washing of streets and/or sidewalks.

URBAN RUNOFF. Any storm water and non-storm water runoff from developed land in, or adjacent to, any municipality.

U.S. EPA. The United States Environmental Protection Agency.
(Ord. 1002, passed 8-1-06)

§ 154.04 ILLICIT DISCHARGES PROHIBITED.

(A) No person shall cause the discharge of non-storm water runoff to enter the municipal separate storm sewer system unless the discharge is one of the following:

(1) Authorized by a NPDES permit issued by EPA, or NDEQ;

(2) Caused by or resulting from one of the following:

(a) Firefighting activities, where such discharges or flows contain no significant sources of pollutants;

(b) Landscape irrigation;

(c) Diverted stream flows;

(d) Rising ground waters;

- (e) Uncontaminated ground water infiltration, as defined at 40 CFR 35.2005(20);
- (f) Uncontaminated pumped ground water;
- (g) Discharges from potable water sources;
- (h) Foundation drains;
- (i) Air conditioning condensation;
- (j) Irrigation water;
- (k) Springs;
- (l) Water from crawl space pumps;
- (m) Footing drains;
- (n) Lawn watering;
- (o) Individual residential car washing;
- (p) Flows from riparian habitats and wetlands;
- (q) Dechlorinated swimming pool discharges;
- (r) Street wash water.

(3) Authorized by the City of La Vista.

(B) All exempt discharges, as listed above, must be in conformance with all other provisions of this code.

(Ord. 1002, passed 8-1-06)

§ 154.05 PROHIBITION OF ILLICIT CONNECTIONS.

No person shall install, maintain, or use any connection to the municipal separate storm sewer system that may result in an illicit discharge to the municipal storm sewer system. All connections to the municipal storm sewer system that provide for an illicit discharge from inside a building are prohibited.

This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. For illicit connections made in the past, a plan to remedy the illicit connection shall be

submitted to the Director or CBO.

(Ord. 1002, passed 8-1-06)

§ 154.06 REMOVAL OF ILLICIT CONNECTION.

If any person fails to disconnect an illicit connection upon 30-day prior notification by the CBO or Director, the CBO or Director may cause the removal of such connection from the municipal storm sewer system. The city may pursue the recovery of costs by appropriate means including a suit at law against the person or persons responsible for such disconnection.

(Ord. 1002, passed 8-1-06)

§ 154.07 PRIVATE STORM WATER CONVEYANCE SYSTEMS.

(A) The owner of a property where a private storm water conveyance system is located shall be responsible for the maintenance and repair, and proper operation of the private storm water conveyance system, regardless of whether the private storm water conveyance system is completely located on the private property or partially within the public right-of-way. The city shall have no responsibility or obligation for the maintenance, repair, or proper operation of a private storm water conveyance system.

(B) If the CBO or Director determines that a private storm water conveyance system is not operating properly and causes the improper discharge of storm water to the street, sidewalk or municipal storm sewer system, the CBO or Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with § 154.04.

(Ord. 1002, passed 8-1-06)

§ 154.08 DISCHARGE OF SANITARY SEWAGE PROHIBITED.

No person shall cause discharge of sanitary sewage to the municipal separate storm sewer system. In addition, if the Director determines that a building drain or building sewer is not operating properly and causes the discharge of sewage to the street, sidewalk, or municipal separate storm sewer system, the Director may declare this condition to constitute a public nuisance and proceed to abate that nuisance in accordance with § 154.04.

(Ord. 1002, passed 8-1-06)

§ 154.09 DAMAGE TO THE MUNICIPAL STORM SEWER SYSTEM.

It is unlawful for any person to maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the municipal storm sewer system.

(Ord. 1002, passed 8-1-06)

§ 154.10 WASTE DISPOSAL PROHIBITIONS.

No person shall throw, deposit, place, leave, maintain, litter, keep, or permit to be thrown, deposited, left, maintained or kept any pollutant, refuse, rubbish, food waste, yard waste, garbage, or any other discarded or abandoned objects in or upon any public or private property, driveway, parking area, street, alley, sidewalk, or other location that may result in an illicit discharge to the municipal storm sewer system. Wastes placed in containers protected from urban runoff such as bags, cans, or recycling bins, and city-approved wastes from construction on public right-of-way are exempted from this prohibition.

(Ord. 1002, passed 8-1-06)

§ 154.11 PROHIBITED DISCHARGES FROM INDUSTRIAL/COMMERCIAL ACTIVITIES.

The following list of discharges from industrial/commercial activities shall be considered prohibited unless permitted under a separate NPDES permit or approved by the City Public Works Department. This list is based on § 154.04 regarding illicit discharges prohibited, but is not an exhaustive list of prohibited discharges to the municipal storm sewer system:

- (A) Water from the cleaning of vehicle fueling stations, vehicle service garages, or other types of vehicle service facilities.
- (B) Water, cleansers, or solvents from the cleaning of vehicles, machinery or equipment, and other such commercial and industrial operations
- (C) Water from the washing or rinsing of vehicles containing soap, detergents, solvents, or other cleaners.
- (D) Water from the cleaning or rinsing of vehicle engine, undercarriage, or auto parts cleaning.
- (E) Vehicle fluids.
- (F) Mat wash water from food service facilities.
- (G) Food and kitchen cleaning water from food service facilities.
- (H) Leakage from dumpsters or trash containers.
- (I) Water from the cleaning or rinsing of garbage dumpster areas and areas where garbage is stored or contained.
- (J) Water from pressure washing, steam cleaning, and hand scrubbing of sidewalks, gutters, plazas, alleyways, outdoor eating areas, steps, building exteriors, walls, driveways, and other outdoor surfaces.

- (K) Wastewater or cleaning fluids from carpet cleaning.
- (L) Swimming pool and spa water.
- (M) Wash out from concrete trucks.
- (N) Runoff from areas where hazardous substances, including diesel fuel, gasoline and motor oil are stored.
- (O) Super-chlorinated, i.e. greater than four mg/l chlorine, water normally associated with the disinfection of potable water systems.

(Ord. 1002, passed 8-1-06)

§ 154.12 NOTIFICATION OF PROHIBITED DISCHARGES REQUIRED.

(A) In the event of discovery of a discharge to the municipal storm sewer system that is prohibited by this code, the discharger or permittee shall immediately notify the CBO or Director of the incident by telephone, facsimile or e-mail. The notification shall include the discharge location, type of materials discharged, estimated concentration and volume of the discharge, and corrective actions taken to contain or minimize the effects of the discharge.

(B) In addition, a written report, facsimile or e-mail, addressed to the CBO or Director detailing the date, time and cause of the discharge, the quantity and characteristics of the discharge, corrective actions taken to contain or minimize the effects of the discharge, and corrective actions taken to prevent future discharges shall be filed by the responsible person within five days of the occurrence of the non-complying discharge.

(Ord. 1002, passed 8-1-06)

§ 154.13 GRADING PERMIT REQUIRED.

It shall be unlawful for any person to engage in or cause any grading, clearing, or excavation activities that result in the disturbance of any land areas sufficiently large to require a general NPDES construction site storm water permit, without the property owner, tenant, or easement holder, or their agent, first obtaining a grading permit from the city's Permits and Inspection Division. This section shall not apply to grading performed solely for agricultural purposes.

(Ord. 1002, passed 8-1-06)

§ 154.14 APPLICATION FOR GRADING PERMIT.

(A) Any property owner, or their **legally authorized** agent, desiring a grading permit shall make an application to the Permits and Inspections Division **and the Papillion Creek Watershed Partnership** on the forms provided by the **CBO**.

(B) Any property owner, or their **legally authorized** agent, desiring a grading permit shall also submit to the city's Permits and Inspection Division a completed NDEQ notice of intent/permit application for coverage under the general NPDES construction site storm water permit. Such permit application shall be made on forms provided by the NDEQ.

(Ord. 1002, passed 8-1-06) (Ord. _____, passed _____)

§ 154.15 GRADING PERMIT FEE.

Before any grading permit application will be accepted by the Permits and Inspection Division, the applicant shall pay to the city a fee in such amount set from time to time by the Mayor and City Council, and a current record of such amount shall be maintained by the City Clerk.

(Ord. 1002, passed 8-1-06)

§ 154.16 ISSUANCE OF GRADING PERMIT.

If, after, examination of the application for a grading permit, the CBO has determined that the proposed plan will meet the requirements of this chapter and if the NDEQ approved the NPDES application for the project, then the Permits and Inspection Division shall issue the grading permit.

(Ord. 1002, passed 8-1-06)

§ 154.17 EROSION AND SEDIMENT CONTROL AT CONSTRUCTION AND DEVELOPMENT SITES.

Provisions for erosion and sediment control at construction and development sites are set forth in the Omaha Regional Stormwater Design Manual. The provisions thereof shall be controlling of all subjects contained therein within the corporate limits and within the jurisdictional area outside the city limits. In the event of any conflict between the provisions of the Omaha Regional Stormwater Design Manual, or any other ordinance, and the provisions of an NPDES permit issued by the State of Nebraska, the provision that imposes the higher or most stringent or most specific practice shall prevail.

(Ord. 1002, passed 8-1-06)

§ 154.18 REQUIREMENT FOR ALL NEW DEVELOPMENT AND REDEVELOPMENT PROJECTS.

Land development and significant redevelopment projects with the potential to add pollutants to storm water or to affect the flow rate or velocity of storm water runoff after construction is completed

must include provisions for the management of the increased post construction runoff in a post-construction storm water management plan.

(Ord. 1002, passed 8-1-06)

§ 154.19 POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.

(A) *The post-construction storm water management plan shall be submitted to the City on a form or format specified by the Director as part of any preliminary plat application required in the Subdivision Regulations. Any parcel of land that is to be developed which requires a grading permit, or requires a building permit and creates more than 5,000 square feet of impervious surface, or requires a building permit and meets the definition of significant redevelopment, and is not already covered by an approved Post-Construction Storm Water Management Plan (PCSWMP), shall have a PCSWMP applicable to the parcel of land prepared and submitted to the City.*

(B) *The PCSWMP shall include at a minimum the design, locations, schedules, and procedures for inspection and maintenance of the selected BMPs. Erosion and sediment control BMPs during the construction process are to be addressed in the grading permit documents. The BMPs for the PCSWMP shall include the reduction of stormwater peak discharge rates after development of the subject parcel to pre-development conditions for the 2-year return frequency storm event measured at every drainage outlet (stormwater discharge) and shall include Low Impact Development (LID) BMPs to provide for water quality improvements in the first one-half inch of runoff from the site. Refer to the Omaha Regional Storm Water Design Manual for information on BMPs and to the Papillion Creek Watershed Partnership web site for information on post construction storm water management plan contents. For significant redevelopment sites, the calculation of the area requiring control of the first one-half inch of runoff shall be based only on the impervious area of the project site that is being added or replaced.*

(Ord. 1002, passed 8-1-06) (Ord. No. _____, passed Feb. 17, 2009)(Ord. _____, passed _____)

§ 154.20 EXEMPTIONS FROM THE POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN.

Systems designed to accommodate only one single family dwelling unit, duplex, triplex, or quadraplex, provided the single unit is not part of a larger common plan of development or sale, are exempt from the requirements in this chapter to submit a post-construction storm water management plan.

(Ord. 1002, passed 8-1-06)

§ 154.21 MAINTENANCE OF POST-CONSTRUCTION BMPs.

(A) The owners and occupants of lands on which structural post-construction BMPs have been installed to meet the requirements of this chapter shall ensure the maintenance of these BMPs and shall themselves maintain those BMPs if other persons or entities who are also obligated to maintain those

BMPs (by contract or covenant, or pursuant to this chapter) fail to do so. Structural BMPs shall be inspected at least annually, and a written record of inspection results and any maintenance work shall be maintained and available for review by the city.

(B) The responsibility to maintain a BMP may be transferred through a contract or other agreement. The person or entity accepting a maintenance obligation in such a contract or agreement will also be legally obliged to maintain that BMP pursuant to this chapter. However, no contract or other agreement imposing an obligation to maintain a BMP can relieve a person or entity of any obligation to maintain a BMP imposed by this chapter.

(C) The maintenance agreement shall require the applicant or owner to execute an inspection and maintenance agreement, to be filled of record, binding on all subsequent owners of land served by a private storm water management facility. Such agreement shall provide for access to the facility, at reasonable times, for inspections by the city or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

(D) The applicant and/or owner shall record the maintenance agreement with the Register of Deeds.

(E) The maintenance agreement shall also provide that if after notice by the city to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) or occupant within a reasonable period of time (30 days maximum), the city may perform all necessary work to place the facility in proper working condition. The owner(s) or occupant of the facility shall be assessed the cost of the work and any lawful penalties.

(Ord. 1002, passed 8-1-06)

§ 154.22 ADMISSION TO PROPERTY.

(A) Whenever it shall be necessary for the purposes of these rules and regulations, the CBO or Director, upon the presentation of credentials, may enter upon any property or premises at reasonable times for the purpose of:

- (1) Copying any records required to be kept under the provisions of this chapter;
- (2) Inspecting any BMPs; and
- (3) Sampling any discharge to the municipal storm sewer system.

(B) The CBO or Director may enter upon the property at any hour under emergency circumstances. The authority to so inspect, sample and copy records shall be limited to only those things, and only the extent, that it has a direct bearing on the kind and source of discharges into the municipal storm sewer system.

(Ord. 1002, passed 8-1-06)

§ 154.23 REGULATORY ACTIONS.

If substances in violation of § 154.04 are discharged or proposed to be discharged into the municipal storm sewer system of the city or any tributary thereto, the city may take action necessary to:

(A) Prohibit the discharge of such effluent;

(B) Require a discharger to demonstrate that modifications to such discharger's facilities will reduce or eliminate the discharge of such substances in conformity with this chapter;

(C) Require pretreatment, including storage, detention or retention facilities necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these prohibitions and limitations;

(D) Require the person making, causing, or allowing the discharge to pay an additional cost or expense incurred by the city for taking remedial actions as may be deemed to be desirable or necessary to achieve the purpose of this chapter;

(E) Require any combination or all of the above.

(Ord. 1002, passed 8-1-06)

§ 154.24 NOTICE OF VIOLATION; CORRECTION OF VIOLATIONS.

Whenever the Chief Building Official or Public Works Director finds that any person has violated or is violating this chapter or any prohibition, limitation or requirement contained herein, such person shall be notified in writing.

(Ord. 1002, passed 8-1-06)

§ 154.25 PENALTY; RECOVERY OF DAMAGES.

Any person who is found to have violated an order provided for in this chapter, or who willfully or negligently failed to comply with any provisions of this chapter and the rules and regulations issued hereunder, shall be deemed guilty of a misdemeanor and shall be fined an amount that does not exceed \$500 under this chapter. Each day any such violation or failure to perform such act shall continue, shall constitute a separate offense, unless otherwise specifically provided. Except as prohibited by the state or federal constitutions, a prosecution under this chapter, shall not be the exclusive penalty for such acts or omissions.

(Ord. 1002, passed 8-1-06)

§ 154.26 ADDITIONAL RULES AND REGULATIONS.

The Director may make rules and regulations, which expand upon or add to the provisions of this chapter but are not inconsistent with them. Prior to taking effect, such rules and regulations, or any amendments thereto, shall be approved by resolution of the City Council. A copy of such rules and regulations, with any current amendments, shall be on file with the City Clerk.

(Ord. 1002, passed 8-1-06)

§ 154.27 APPEALS.

Any person aggrieved by the issuance, denial, suspension, cancellation, modification, or revocation of any permit provided for in this chapter or by any other order of the CBO or Director, may within ten days of the receipt of written notice of the entry of such order, submit a written appeal to the City Council at their next regularly scheduled meeting.

(Ord. 1002, passed 8-1-06)

§ 154.28 CONFLICTS WITH OTHER CODE SECTIONS.

The provisions of this chapter shall control over any inconsistent or conflicting provision of this code of ordinances.

(Ord. 1002, passed 8-1-06)

154.29 PAPILLION CREEK WATERSHED MANAGEMENT FEES

- (A) Through an Interlocal Cooperation Act Agreement, the City has participated in the Papillion Creek Watershed Partnership to draft six policies and a map-based Papillion Creek Watershed Plan and a shorter term Papillion Creek Watershed Implementation Plan.**
- (B) It is expected the policies and plans in the Papillion Creek Watershed Plan will continue to be refined and amended. Specifically, the Papillion Creek Watershed Partnership intends to review the needs for regional detention structures and water quality basins on approximately a three year interval to provide updates to the Papillion Creek Watershed Implementation Plan.**
- (C) In accordance with the adopted Interlocal Cooperation Act Agreement for the Papillion Creek Watershed Partnership, Watershed Management Fees shall be collected from new developments and significant redevelopment requiring a subdivision agreement and located wholly or in part in the Papillion Creek Watershed to provide funding for construction of regional detention structures and water quality basins contained in the Papillion Creek Watershed Plan. However, any parcel of property for which similar Watershed Management Fees have been collected previously will not be required to again contribute the fees as the result of a subsequent redevelopment. Through the terms of an Interlocal Cooperation Act Agreement, as may be amended from time to time, the City shall transfer such fees to the Papio-Missouri River Natural Resource District, which will be responsible for the construction of regional detention structures and water quality basins in accordance with the Papillion Creek Watershed Implementation Plan, as may be amended from time to time.**

(D) The Watershed Management Fees required under this division shall be specified in all subdivision agreements executed after the effective date of this ordinance and shall be collected for each parcel, the amount to be computed at the time of issuance of the first building permit for each parcel in a development. The Watershed Management Fees specified in an approved subdivision agreement shall not change as long as such plat remains in effect. The Watershed Management Fee framework or rates may be changed during the buildout of a particular subdivision, but any similar rates specified in a valid subdivision agreement shall remain fixed at those prevailing at the time the subdivision agreement was approved.

(E) SCHEDULE OF CHARGES

- (1) Based upon the recommendations of the Papillion Creek Watershed Partnership and consistent with the terms of an Interlocal Cooperation Act Agreement with the Papio-Missouri River Natural Resources District, the rates for Watershed Management Fees shall be as set forth in the City of La Vista Master Fee Schedule, as amended from time to time.**
- (2) The Watershed Management Fees are in addition to all other sewer connection or use fees provided for elsewhere in this Code.**

(Ord. _____, passed _____)

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 16, 2010 AGENDA

Subject:	Type:	Submitted By:
132 ND STREET AND WEST GILES ROAD IMPROVEMENTS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

SYNOPSIS

Resolutions have been prepared to approve the following:

- Amendment No. 1 of the Interlocal Cooperation Agreement with Sarpy County for improvements to the intersection of 132nd Street and West Giles Road and adjacent legs of 132nd Street and West Giles Road and adjacent railroad crossings.
- Phase I – Railroad Circuitry Upgrades.

FISCAL IMPACT

The project has three Phases. These projects have been included in the Capital Improvement Program and Phases 1 & 2 are funded in the current FY10 municipal budget. Estimated project costs for each phase are located in Exhibit A-B&C of the Interlocal Agreement.

RECOMMENDATION

Approval

BACKGROUND

There are three separate components to the improvements to be undertaken pursuant to the Agreement. Phase 1 consists of railroad crossing (Quiet Zone) improvements; Phase 2 consists of interim reconstruction of the intersection of 132nd Street and West Giles Road; and Phase 3 consists of long term improvements to the intersection of 132nd and West Giles Road.

The modifications contained in Amendment No. 1 include: the estimated cost of the Circuitry Upgrade is \$114,395.00 (the “Estimated Cost”). SPW Partners hereby agrees to pay all costs to construct and provide the Circuitry Upgrade, up to, but not in excess of, 110% of the Estimated Costs; and, the County, not the City will enter into an agreement with Burlington Northern Santa Fe Railway for the constant warning circuitry upgrade improvements.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN AMENDMENT TO THE INTERLOCAL COOPERATION AGREEMENT WITH SARPY COUNTY FOR IMPROVEMENTS TO THE INTERSECTION OF 132ND STREET AND WEST GILES ROAD AND ADJACENT LEGS OF 132ND STREET AND WEST GILES ROAD AND ADJACENT RAILROAD CROSSINGS

WHEREAS, the city of La Vista and Sarpy County entered into an Interlocal Agreement to improve the intersection of 132nd Street and West Giles Road and adjacent legs of West Giles Road and 132nd Street and adjacent railroad crossings, which locations are in Sarpy County and the extraterritorial jurisdiction of La Vista; and

WHEREAS, the modifications contained in Amendment No. 1 include the estimated cost of the Circuitry Upgrade; and

WHEREAS, SPW Partners hereby agrees to pay all costs to construct and provide the Circuitry Upgrade, up to, but not in excess of, 110% of the estimated costs; and

WHEREAS, Sarpy County, not La Vista, will enter into an agreement with Burlington Northern Santa Fe Railway for the constant warning circuitry upgrade improvements;

NOW THEREFORE, BE IT RESOLVED, that the First Amendment to the Interlocal Cooperation Agreement with Sarpy County and the city of La Vista, is hereby 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 16TH DAY OF FEBRUARY 2010.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

INTERLOCAL AGREEMENT

AMENDMENT NO. 1

By signing below, the parties make and enter this Amendment No. 1 to the Interlocal Agreement by and between CITY OF LA VISTA, a Municipal Corporation of the State of Nebraska, hereinafter referred to as "La Vista"; and SARPY COUNTY of the State of Nebraska, hereinafter referred to as "Sarpy County" or "County" dated effective July 1, 2008 ("Interlocal Agreement").

WITNESSETH

WHEREAS, La Vista and Sarpy County entered the Interlocal Agreement to improve the intersection of West Giles Road and 132nd Street and adjacent legs of West Giles Road and 132nd Street and adjacent railroad crossings, which locations are in Sarpy County and the extraterritorial jurisdiction of La Vista; and

WHEREAS, there are three separate components to the improvements, with the first two to be undertaken pursuant to the Interlocal Agreement: Phase 1 shall consist of railroad crossing improvements; Phase 2 shall consist of interim reconstruction of the intersection of 132nd Street and West Giles Road; and Phase 3 shall consist of long term improvements to the intersection of 132nd Street and West Giles Road, all as shown on the exhibits of the Interlocal Agreement; and

WHEREAS, a significant part of Phase 1 improvements is the constant warning circuitry upgrade; and

WHEREAS, Phase 1 does not include any federal funding assistance, but is conditioned upon participation by adjacent landowners. Any contribution or cost sharing by local property owners and/or developers in Phase 1 improvements shall be the responsibility of La Vista to obtain; and

WHEREAS, La Vista has obtained a proposed agreement of landowner/developer SPW Partners, LLC to contribute to the cost of constant warning circuitry upgrade in form and content presented as Exhibit A to this Amendment No. 1 and incorporated herein by this reference and titled "Agreement 132nd and West Giles Phase I – Railroad Circuitry Upgrade Agreement" ("Landowner Agreement"); and

WHEREAS, an agreement between the County and Burlington Northern Santa Fe Railway is required for circuitry upgrade improvements.

NOW THEREFORE, in consideration of, and based on, the foregoing and the mutual promises and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The Landowner Agreement and contributions to be provided thereunder by SPW Partners, LLC toward the costs of constant warning circuitry upgrade improvements are hereby approved. Any costs of the constant warning circuitry upgrade in excess of the amount to be paid by SPW Partners, LLC shall be paid by the County, with La Vista reimbursing the County for the City's share in accordance with the allocation of costs provided for in the Interlocal Agreement for other Phase 1 costs.

2. The County will enter an agreement with Burlington Northern Santa Fe Railway for the constant warning circuitry upgrade improvements, subject to prior review and approval of the City and SPW Partners, LLC ("Railroad Agreement").

3. The County will not enter the Railroad Agreement until La Vista obtains a letter of credit from SPW Partners, LLC. Specifically, after SPW Partners, LLC and City approve, but before the County enters, the Railroad Agreement, La Vista will obtain and provide to the County a letter of credit from SPW Partners, LLC guaranteeing its payment obligations under the Landowner Agreement. The letter of credit shall be substantially in form and content attached hereto as Exhibit B and incorporated herein by this reference, subject to such revisions as the County Administrator and City Administrator determine necessary or appropriate ("Letter of Credit").

4. Oversight, inspections and approvals of or for constant warning circuitry upgrade work under the Railroad Agreement will be governed by the same provisions as provided in the Interlocal Agreement for other work with respect to which County is the lead agent.

5. La Vista will be the lead agent for remaining Phase 1 improvements as provided in the Interlocal Agreement.

6. Except as modified by this Amendment No. 1, all terms and conditions of the Interlocal Agreement shall continue in effect as originally drafted.

IN WITNESS WHEREOF, we, the contracting parties, by our respective and duly authorized agents, hereto affix our signatures and seals in duplicate below.

CITY OF LA VISTA, Nebraska

By _____
Mayor

Date: _____

ATTEST:

City Clerk

Date: _____

SARPY COUNTY, Nebraska

By _____
Chairman, County Board

Date: 1/26/2010

ATTEST:

Delroy Vaughn
County Clerk

Date: 1/26/2010



Approved as to form:

Mark A. Land
County Attorney

Date: 1-27-10

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE EXECUTION OF AN AGREEMENT BETWEEN SPW PARTNERS, LLC AND THE CITY OF LA VISTA FOR PHASE I – RAILROAD CIRCUITRY UPGRADE OF THE 132ND AND WEST GILES ROAD IMPROVEMENTS

WHEREAS, the city of La Vista and Sarpy County entered into an Interlocal Agreement to improve the intersection of 132nd Street and West Giles Road and adjacent legs of West Giles Road and 132nd Street and adjacent railroad crossings, which locations are in Sarpy County and the extraterritorial jurisdiction of La Vista; and

WHEREAS, there are three separate components to the improvements to be undertaken pursuant to the Agreement; and

WHEREAS, Phase I does not include any federal funding assistance, but is conditioned upon participation by adjacent landowners and/or developers; and

WHEREAS, The City is responsible for obtaining contribution by local property owners and/or developers in Phase I improvements; and

WHEREAS, SPW Partners desires to contribute to the cost of Phase I improvements; and

WHEREAS, the FY 2009/10 Capital Improvement Program includes funding Phases 1 and 2 of this project;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council that the agreement between SPW Partners, LLC and the City of La Vista, is hereby 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 16TH DAY OF FEBRUARY 2010

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

**AGREEMENT
132ND AND WEST GILES
PHASE I - RAILROAD CIRCUITRY UPGRADE**

THIS AGREEMENT is made and entered into effective as of the 1st day of September, 2009 by and between SPW PARTNERS, LLC, a Nebraska limited liability company ("SPW Partners") and the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska ("City" or "La Vista").

WITNESSETH:

WHEREAS, the City and Sarpy County ("County"), in the interests of public safety and welfare, entered an Interlocal Agreement for improvements to the intersection of West Giles Road and 132nd Street and adjacent legs of West Giles Road and 132nd Street and adjacent railroad crossings located in the County and extraterritorial jurisdiction of the City, effective as of July 1, 2008, a copy of which is attached hereto as Attachment 1 and incorporated herein by this reference ("Interlocal Agreement"); and

WHEREAS, there are three separate components to the improvements, with the first and second phases to be undertaken pursuant to the Interlocal Agreement. Phase 1 shall consist of railroad crossing improvements shown on Exhibit "A". Phase 2 shall consist of interim reconstruction of the intersection of 132nd Street and West Giles Road as shown on Exhibit "B". Phase 3 shall consist of long term improvements to the intersection of 132nd Street and West Giles Road as shown on Exhibit "C". All referenced Exhibits are part of and attached and incorporated into the Interlocal Agreement; and

WHEREAS, Phase 1 does not include any federal funding assistance, but is conditioned upon participation by adjacent landowners and/or developers; and

WHEREAS, the City is responsible for obtaining contribution by local property owners and/or developers in Phase 1 improvements; and

WHEREAS, Southport West is a subdivision within the corporate limits of the City and adjacent to the improvement area described in the Interlocal Agreement ("Southport West"); and

WHEREAS, SPW Partners is the current legal owner of record of Lots 1, 2 and 3, Southport West, as depicted on the plat of Southport West attached hereto as Attachment 2 and incorporated herein by this reference ("Lots"); and

WHEREAS, SPW Partners believes that marketability and potential development of said Lots in Southport West could be substantially enhanced by the contemplated Phase 1 improvements, and desires to see such improvements made; and

WHEREAS, as a result, SPW Partners desires to contribute to the cost of Phase 1 improvements.

NOW THEREFORE, in consideration of, and based on, the foregoing and mutual promises and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged and agreed, the parties agree as follows:

1. The City and SPW Partners agree to cooperate in construction and acquisition of Phase 1 improvements.
2. La Vista shall arrange for design, construction and oversight of Phase 1 improvements in accordance with the Interlocal Agreement. La Vista shall provide the Project Manager and shall interpret and construe the plans, specifications, designs, and any addenda to those documents. All work undertaken for the Phase 1 improvements shall be subject to approval of the Project Manager. The Project Manager shall be the final arbiter and shall determine whether any and all performance of work, workmanship, quality of materials, and/or acceptability of work is in accordance with the Phase 1 contract documents.
3. Part of the Phase 1 improvements is the Constant Warning Circuitry Upgrade, W. Giles Crossing ("Circuitry Upgrade") more specifically described in Attachment 3 attached hereto and incorporated herein by this reference.
4. The estimated cost of the Circuitry Upgrade is \$114,395.00 (the "Estimated Cost"). SPW Partners hereby agrees to pay all costs to construct and provide the Circuitry Upgrade, up to, but not in excess of, 110% of the Estimated Cost.
5. Upon execution of this Agreement, City or County shall proceed to negotiate and enter one or more contracts for the Circuitry Upgrade, in form and content satisfactory to SPW Partners, the City and County, and subject to any required approval of, the City and County ("Circuitry Upgrade Agreement"). City shall promptly provide SPW Partners a copy of the Circuitry Upgrade Agreement for its review and approval.
6. SPW Partners shall provide the City with a letter of credit of such issuer and in such form and content as reasonably satisfactory to the City, to ensure and guaranty the timely payment of costs of the Circuitry Upgrade as provided for herein. Said letter of credit shall be provided to the City within 15 days after the Circuitry Upgrade Agreement has been executed by the contractor and approved by the City or County; provided, however, that City and/or County execution of and entering said Circuitry Upgrade Agreement shall be subject to prior receipt of said letter of credit.
7. The amount of the letter of credit shall be equal to 110% of the Estimated Cost.
8. SPW Partners shall timely pay in accordance with this Agreement all invoices submitted for work related to the Circuitry Upgrade; and if not timely paid, the City shall have the right to obtain payment from the issuer of the letter of credit.
9. Each invoice under this Agreement shall be due and payable within 30 days after the date the invoice is issued, unless an earlier date is required for any payment under any Circuitry Upgrade Agreement. Any amounts that are not paid when due shall accrue interest at the rate specified in the applicable invoice or agreement (or 1 1/2 % per month if a rate is not specified) or the maximum rate allowed by applicable law, whichever is less. Failure to pay an amount when due shall constitute a default and breach of this Agreement.

10. SPW Partners enters this Agreement and agrees to make the payments and carry out such other obligations as provided herein to induce the City and/or County to negotiate and enter agreements for, and otherwise proceed with, the Phase 1 improvements as described in the Interlocal Agreement; and the City enters this Agreement in reliance on the obligations undertaken by SPW Partners hereunder.
11. Plans, specifications, and updated cost estimates for the Circuitry Upgrade shall be promptly provided to SPW Partners by the City.
12. The parties to this Agreement shall not in the performance of the terms of this contract discriminate or permit discrimination against any parties on account of race, national origin, sex, age, disability, or political or religious affiliations in violation of federal or state laws or local ordinances.
13. This Agreement shall be subject to approval of the governing body of the City.
14. Each party shall designate a person to be its primary point of contact for purposes of the party's administration of this Agreement, in addition to any other designation provided herein. The initial point of contact for each party shall be:

For SPW Partners:

Dean T. Hokanson, Jr.,
Managing Member
SPW Partners, LLC
11213 Davenport Street, Suite 300
Omaha, NE 68154

For the City:

Brenda Gunn
City Administrator
City of La Vista
8116 Park View Blvd
La Vista, NE 68128

15. Entire Agreement. This Agreement contains the entire agreement of the parties and shall be binding upon the successors and assigns of the respective parties. No amendments, deletions or additions shall be made to this Agreement except in writing signed by all parties.
16. Assignment. This Agreement or any right or obligation hereunder shall not be assigned or transferred in any manner whatsoever to any other party without the prior written consent of all parties to this Agreement.
17. Rights and Remedies. Remedies provided in this Agreement are not exclusive. Rather, each remedy set forth in this Agreement shall be cumulative with all other remedies set forth in this Agreement or otherwise available at law or in equity.
18. Severability. The invalidity or unenforceability of any covenant, restriction, condition, limitation or any other provision of Agreement, as the case may be and finally determined by a court of competent jurisdiction, shall not render the remainder of this Agreement nor any part hereof invalid or unenforceable.
19. Waivers. Any waiver must be in writing to be effective. The failure of a party to insist upon strict performance of any obligation under this Agreement shall not constitute or be deemed a waiver of any rights or remedies that a party might have and shall not be deemed a waiver of any subsequent breach or default.

20. Governing Law. Nebraska law shall govern this Agreement in all respects.
21. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

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

CITY OF LA VISTA, a Nebraska municipal corporation

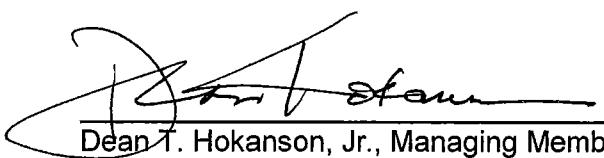
SPW PARTNERS, LLC, a Nebraska limited liability company

BY:

Douglas Kindig, Mayor

Date

BY:



Dean T. Hokanson, Jr., Managing Member

Date

ATTEST:

Pamela A. Buethe, City Clerk

Date

ATTACHMENT 1

278316-1

INTERLOCAL AGREEMENT

This Interlocal Agreement is made and entered into effective as of the 1st day of July, 2008 by and between CITY OF LA VISTA, a Municipal Corporation of the State of Nebraska; hereinafter referred to as "La Vista"; and SARPY COUNTY of the State of Nebraska, hereinafter referred to as "Sarpy County" or "County".

WITNESSETH

WHEREAS, La Vista and Sarpy County are desirous of entering into mutually beneficial endeavors to improve the intersection of West Giles Road and 132nd Street and adjacent legs of West Giles Road and 132nd Street and adjacent railroad crossings, which locations are in Sarpy County and the extraterritorial jurisdiction of La Vista; and,

WHEREAS, there are three separate components to the improvements, with the first and second phases to be undertaken pursuant to this Interlocal Agreement. Phase 1 shall consist of railroad crossing improvements shown on Exhibit "A". Phase 2 shall consist of interim reconstruction of the intersection of 132nd Street and West Giles Road as shown on Exhibit "B". Phase 3 shall consist of long term improvements to the intersection of 132nd Street and West Giles Road as shown on Exhibit "C"; and,

WHEREAS, Phase 1 does not include any federal funding assistance, but is conditioned upon participation by adjacent landowners and/or developers; and,

WHEREAS, Phase 2 is to be funded at least 80 percent by the Federal Highway Administration and not in excess of 20 percent by the parties to this Interlocal Agreement; and,

WHEREAS, Phase 2 of this project shall be known by the Sarpy County Project number assigned to it; and,

WHEREAS, Phase 3 is to be funded at least 80 percent by the Federal Highway Administration and not in excess of 20 percent by the parties to this Interlocal Agreement; and,

WHEREAS, all entities desire to describe and define the project, phases, work and responsibilities of the project to enable them to jointly undertake the project in the manner described as follows.

NOW THEREFORE, in consideration of, and based on, the foregoing and the mutual promises and agreements set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. This Agreement is made pursuant to the Interlocal Cooperation Act §13-801, *et seq.* (Reissue 1997). This contract shall expire upon the performance of all the obligations of the parties as described herein. There shall be no separate legal or administrative entity created to administer this Agreement. Accordingly, no separate budget needs to be

established.

2. Sarpy County hereby delegates authority to La Vista to contract with an engineering consultant of its choice for the improvements in Phase 1. La Vista shall be responsible to arrange for design, construction and oversight of all Phase 1 improvements. Sarpy County shall have the right, but not the obligation, to inspect the work at any time at its sole cost. La Vista shall be responsible for making the initial payments for design and construction and Sarpy County shall reimburse La Vista for its share of such expenditures incurred before, on or after the effective date of this Agreement above, commencing no earlier than July 1, 2008, and at monthly intervals thereafter upon requests for reimbursements from La Vista. Sarpy County will reimburse La Vista for its share of such costs no later than 30 days after its invoice is received. The total estimated costs of Phase 1 and the participation by each party to this Agreement is set forth in Exhibit "A". A party shall not be obligated to pay in excess of the amount of actual costs allocated to it in accordance with the percentages set forth in Exhibit "A" unless authorized in advance by the party in writing. La Vista shall provide the Project Manager and shall interpret and construe the plans, specifications, designs, and any addenda to those documents. All of the work undertaken for the Phase 1 improvements shall be subject to the approval of the Project Manager. The Project Manager shall be the final arbiter and shall determine whether any and all performance of work, workmanship, quality of materials, and/or acceptability of work is in accordance with the Phase 1 contract documents.
3. Sarpy County shall serve as the lead agent for Phase 2 design, construction and payment. The County shall select a consultant for the preparation of plans and specifications for the Phase 2 improvements in accordance with the applicable Nebraska Department of Roads Guidelines for Consultant Selection on projects involving federal funding assistance. The County shall take bids and enter into contracts as necessary to complete the construction of the Phase 2 improvements; provided, however, that the County shall not solicit bids until the City and County receive written notice that federal funds have been approved for said improvements. The County shall inspect the work performed and make payments of the costs of the Phase 2 improvements on a regular basis as such costs are incurred. Sarpy County shall bill La Vista on a monthly basis for reimbursement of its share of such costs. La Vista will pay a bill no later than 30 days after an invoice is received. La Vista shall have the right, but not the obligation, to inspect the work at any time at its sole cost. The County shall be responsible for all real and personal property acquisitions required to construct the Phase 2 improvements. The Sarpy County Surveyor shall be the Project Manager and shall interpret and construe the plans, specifications, designs, and any addenda to those documents. All of the work undertaken for the Phase 2 improvements shall be subject to the approval of the Project Manager. The Project Manager shall be the final arbiter and shall determine whether any and all performance of work, workmanship, quality of materials, and/or acceptability of work is in accordance with the Phase 2 contract documents. Sarpy County may, with the approval of La Vista, engage the services of a consultant to perform the duties of Project Manager.
4. Federal assistance is presently available for the Phase 2 improvements and these

improvements shall be constructed by October 1, 2010. The total estimated costs of Phase 2 and the participation by each party to this Agreement are set forth in Exhibit "B". A party shall not be obligated to pay in excess of the amount of actual costs allocated to it in accordance with the percentages set forth in Exhibit "B" unless authorized in advance by the party in writing.

5. The estimated costs of Phase 3 and the participation by each party to this Agreement are set forth in Exhibit "C". Upon completion of Phase 2 improvements, the City and County will cooperate and work in good faith to secure federal funding and implement Phase 3 improvements in substantially the same manner as Phase 2 improvements. If federal funding becomes available for Phase 3 improvements, the parties agree to enter an addendum to this Agreement or another interlocal cooperation agreement setting forth their relative responsibilities with respect to said improvements.
6. Notwithstanding anything in this Agreement to the contrary, if the specified level of federal assistance for Phase 2 improvements has not become available within 5 years after the last date this Agreement is executed below, the parties shall meet and decide whether or not to proceed with said phase. To proceed under such circumstances shall require the written agreement of both parties.
7. Any contribution or cost sharing by local property owners and/or developers in Phase 1 improvements shall be the responsibility of La Vista to obtain. In the event the local property owners and/or developers do not agree to participate, then neither Sarpy County or La Vista shall be obligated to proceed with Phase 1 improvements under this Interlocal Agreement.
8. Sarpy County shall coordinate with, and obtain agreements and participation of, all public and private bodies, entities and persons as necessary or advisable for Phase 2. Sarpy County further shall notify and obtain consent of La Vista at least two weeks before any street or part of a street is at any time proposed to be in any manner closed, or traffic rerouted, diverted, restricted or otherwise affected.
9. It is the mutual desire and intention of the parties that the public improvements shall be completed as expeditiously as possible. Accordingly, the parties hereby agree to cooperate with each other and make reasonable, good faith efforts to perform their obligations hereunder in a timely manner so as to achieve completion of the work contemplated by this Agreement as expeditiously as possible. Not in limitation of the foregoing, the parties agree to cooperate and take such actions as necessary to expedite the application and request for federal funding for Phase 2 and obtain the same as quickly as possible after this Agreement is executed, it being understood that, with regard to applying for and obtaining federal funding, time is of the essence.
10. Plans, specifications, and updated cost estimates for Phase 1 or Phase 2 improvements shall be presented to each of the parties to this Agreement for their review and approval before construction bids are advertised; which approval and any other approval provided

for elsewhere in this Agreement shall not be unreasonably withheld. Construction documents shall be subject to review and approval of each party, as well. All construction and work shall be performed and carried out in strict accordance with the approved plans, specifications and other documents, as well as all applicable laws, rules and regulations, and all contractors hired to perform work shall be required to guarantee the work against all defects for a period of at least two years after final acceptance and at its sole cost and expense correct any defects arising within said warranty period. Each party shall have the right to separately or jointly assert and enforce any warranty or other right or requirement with respect to any of the work. Upon final completion, testing, certification and acceptance of the work, each party shall be provided a complete copy of all warranties, test results, certifications and any other documents related to the work as from time to time requested. All documents and records related to each phase of the work shall be maintained for at least five years after completion of the work related to that phase.

11. This Agreement shall remain in effect until all of the phases of the improvements have been completed, paid for and accepted, unless earlier terminated by the written agreement of both parties; provided, however that any provision hereof requiring any warranty, or requiring any document retention or maintenance with regard to the work or any other performance beyond the end of this Agreement, shall continue in effect and survive after this Agreement terminates. Amendments hereto shall be made in writing adopted and executed by both parties.
12. Attached as Exhibit "D" is a map of the Project area, showing the area of the Project currently within the corporate limits of the City. The area of the Project not currently within the corporate limits is designated on Exhibit "D" as "Area A." If a Phase 1 or 2 of the improvements provided by this Agreement is completed, and within 5 years thereafter the City exercises its powers of annexation so as to include within the corporate limits of the City, either directly or by operation of law, any portion of said Area A that includes improvements of said phase as depicted in the Exhibits attached hereto, City shall reimburse County for the County's share of project costs that the County paid under this Agreement with respect to said phase. Said reimbursement shall be the same proportion of the County's said paid cost under this Agreement for said phase as the proportion of Area A that is annexed within 5 years after said phase is completed. If, at any time after the execution of this Agreement and prior to the completion of a particular improvement pursuant to this Agreement as depicted in Exhibit A or B attached hereto, the City exercises its powers of annexation, so as to include within the corporate limits of the City, either directly or by operation of law, any portion of Area A that does or is scheduled to contain said improvement, the County shall have no obligation to participate in the cost of said improvement; provided, however:
 - a. At the election of City, County shall complete any such improvement for which County is designated in this Agreement as the lead agent;
 - b. County shall facilitate and cooperate in transitioning to the City all work,

documents and funding related to any such improvement for which County is designated in this Agreement as the lead agent and the City elects to assume the lead agent role and complete;

- c. County shall continue to act as fiscal agent for any federal funding that has been secured or awarded to it for such improvement if such fiscal agent responsibilities cannot be easily transferred to the City; and
- d. County shall continue to cooperate with the City to retain, secure or obtain any federal funding or complete any improvements specified in this Agreement.

If possible, any federal funding shall be secured and obtained in the names of the City and County as authorized alternative payees and fiscal agents, and all agreements entered by the County with respect to the improvements shall be assignable to the City.

- 13. The maintenance of the improvements constructed under this Agreement shall be the responsibility of the agency within whom's jurisdiction the improvements are located.
- 14. The parties to this Agreement shall not in the performance of the terms of this contract discriminate or permit discrimination against any parties on account of race, national origin, sex, age, disability, or political or religious affiliations in violation of federal or state laws or local ordinances.
- 15. Drug Free Policy. Each party provides assurance that it has established and maintains a drug free workplace policy.
- 16. This Agreement shall be subject to approval of the governing body of each party.
- 17. Each party shall designate a person to be its primary point of contact for purposes of the party's administration of this Agreement, in addition to any other designation provided herein. The initial point of contact for each party shall be:

For Sarpy County:

County Administrator
Sarpy County
1210 Golden Gate Drive
Papillion, NE 68046

For La Vista:

City Administrator
City of La Vista
8116 Park View Blvd.
La Vista, NE 68128

- 18. Entire Agreement. This Agreement contains the entire agreement of the parties and shall be binding upon the successors and assigns of the respective parties. No amendments, deletions, or additions shall be made to this Agreement except in writing signed by all parties.
- 19. Nebraska law shall govern this Agreement in all respects.

20. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, we, the contracting parties, by our respective and duly authorized agents, hereto affix our signatures and seals in duplicate below.

CITY OF LA VISTA, Nebraska

By _____
Mayor

Date: 11/8/2008

ATTEST:

Jamela County Clerk
City Clerk

Date: 11/8/2009

SARPY COUNTY, Nebraska

By _____
Chairman, County Board

Date: 12/16/2008

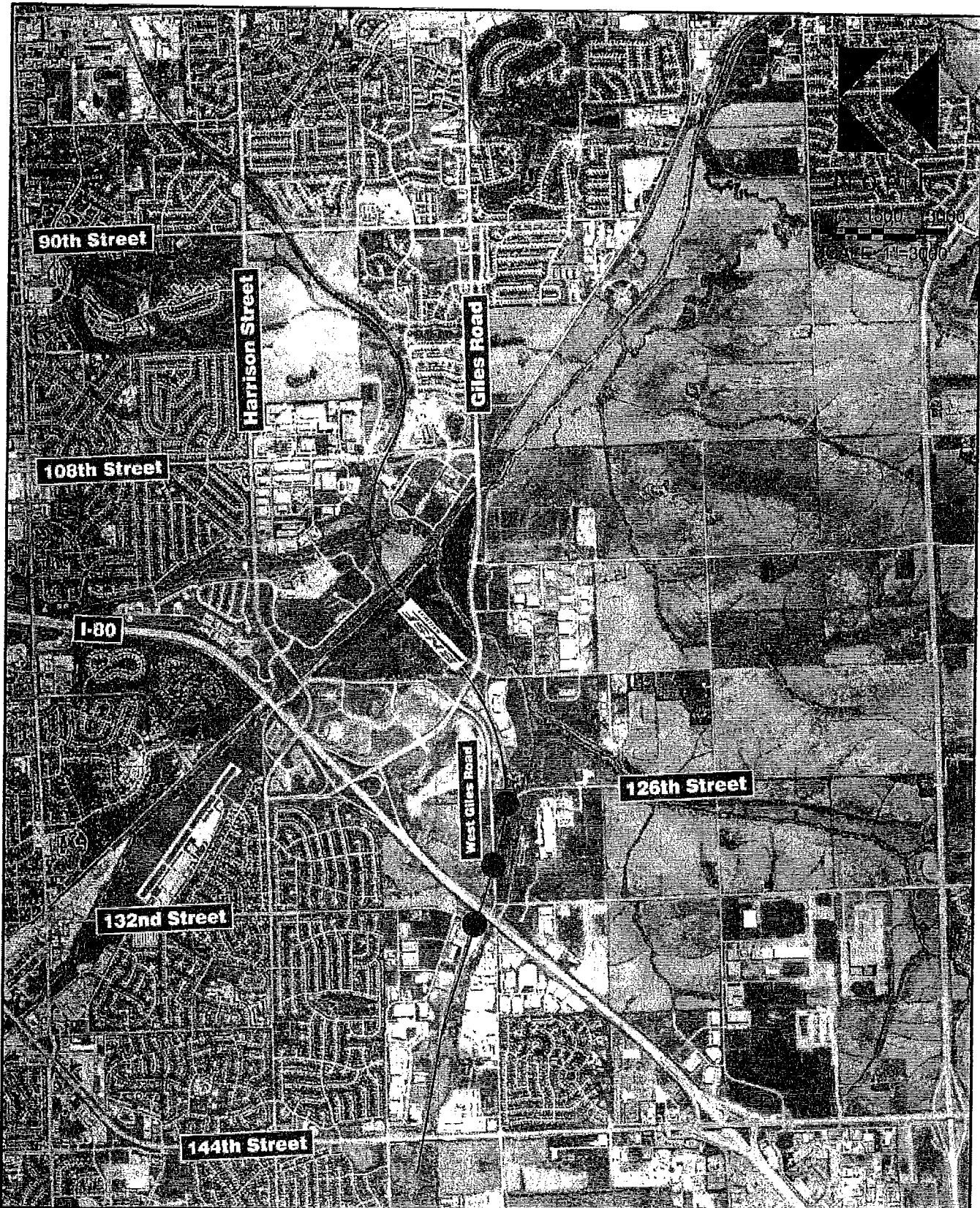
Desiree Vondeling
County Clerk

Date: 12/16/2008



Approved as to form: Mark A. Sund
County Attorney

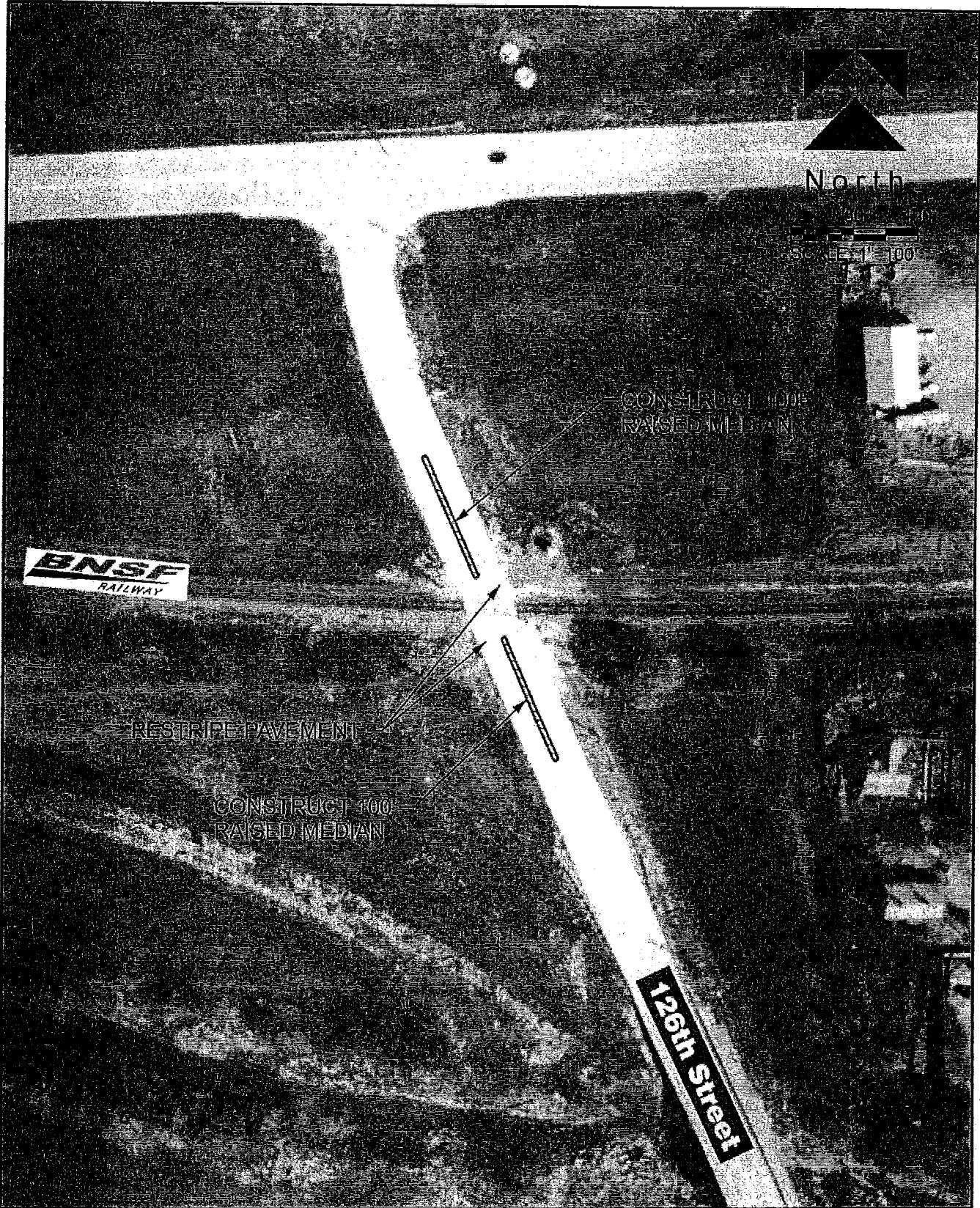
Date: 12/16/08



FELSBURG
HOLT &
ULLEVIG

BNSF Quiet Zone
LaVista, Nebraska

Figure 1
Study Location Map



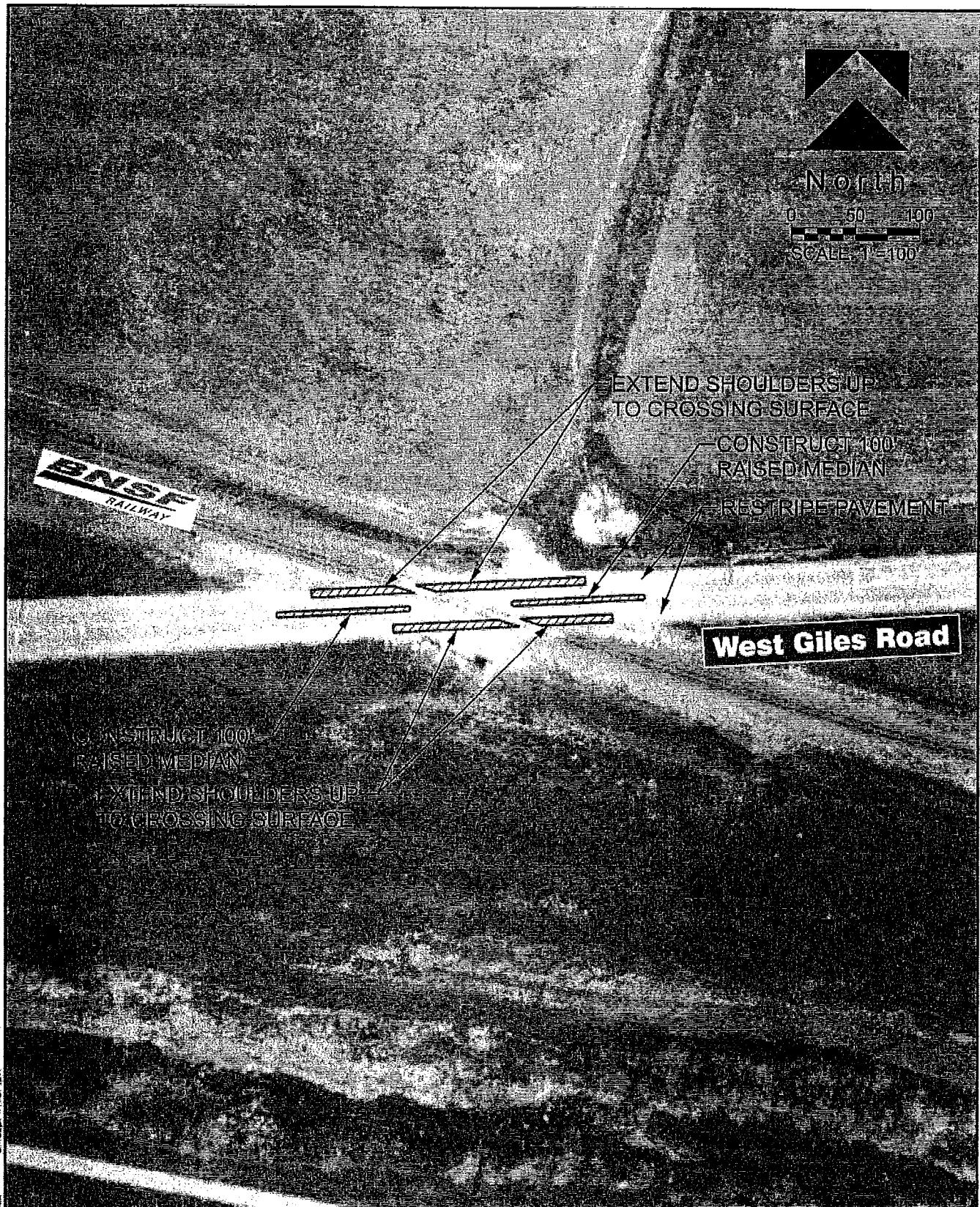
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FELSBURG
HOLT &
ULLEVIG

BNSF Quiet Zone
LaVista, Nebraska

Figure 5
126th Street
Raised Median Option



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FELSBURG
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ULLEVIG

BNSF Quiet Zone
LaVista, Nebraska

Figure 7
West Giles Road
Raised Median Option

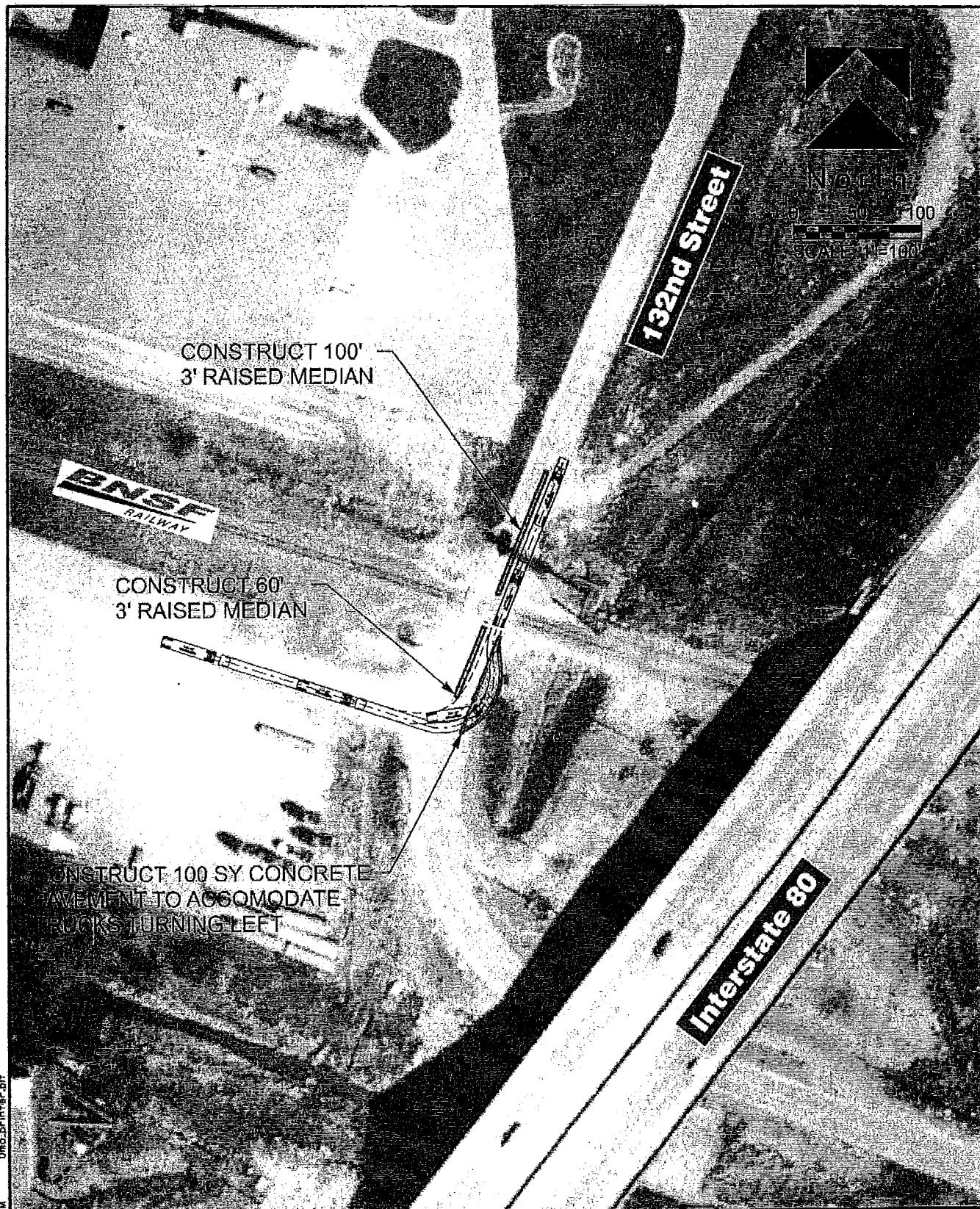


Figure 9
132nd Street
Raised Median Option



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BNSF Quiet Zone
LaVista, Nebraska

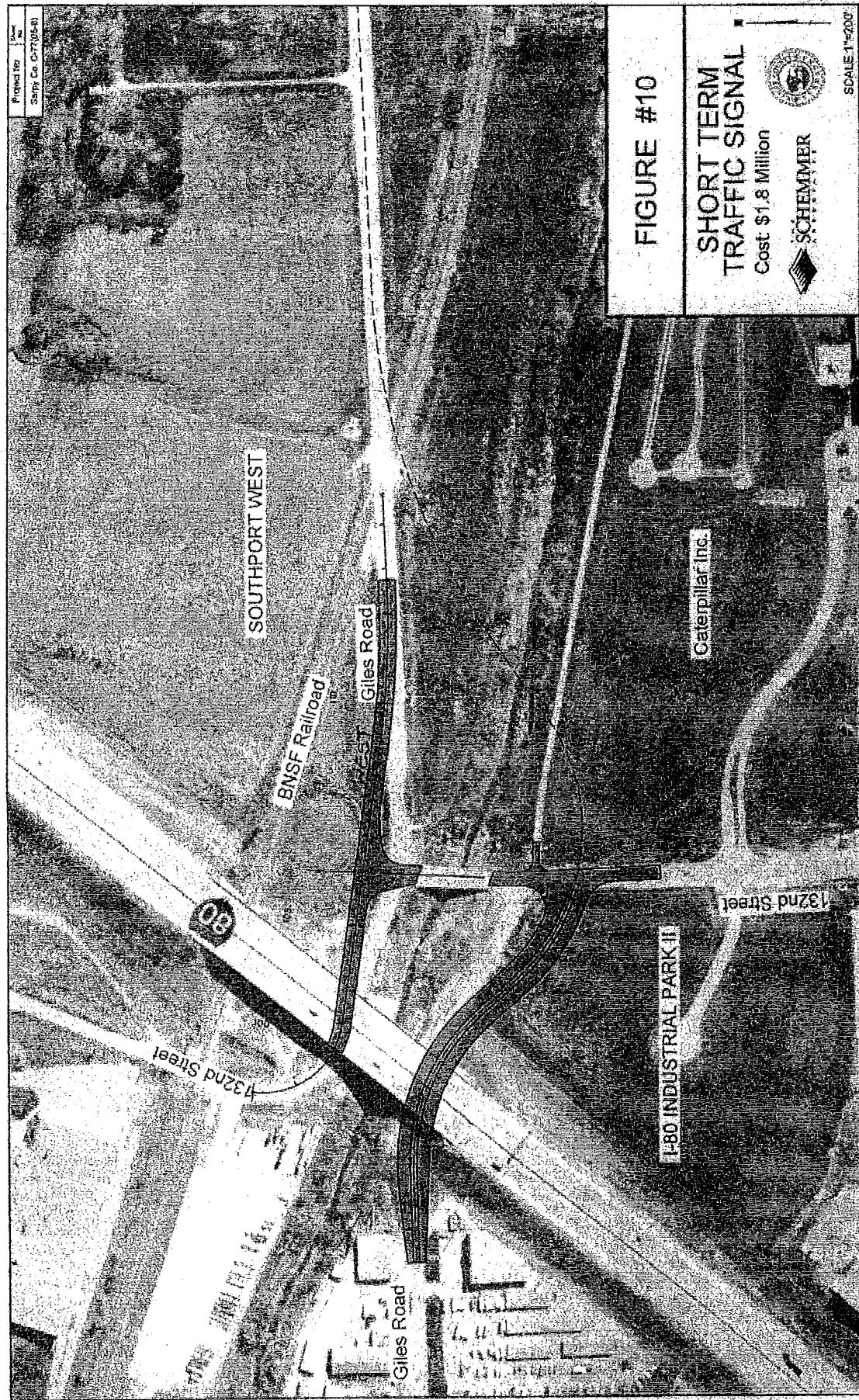
PHASE 1 – RAILROAD CROSSING IMPROVEMENTS

ESTIMATED COSTS:

1. Quiet Zone Study	\$ 9,500
2. Constant Warning Circuitry Upgrade, W. Giles Crossing	\$114,395
3. Construct Raised Medians At 126 th St. Crossing	\$ 25,100
4. Construct Raised Medians At W. Giles Crossing	\$ 30,600
5. Construct Raised Medians At 132 nd St. Crossing	\$ 28,600
6. Survey, Design & Const. Phase Services	\$ 26,550
7. Legal Fees	\$ 3,500
<hr/>	
Total Estimated Costs	\$238,245

ALLOCATION OF COSTS:

City of La Vista to recover from Property Owners and/or Developers (Constant Warning Circuitry costs to BNSF, Item 2)	\$114,395
City of La Vista (50% of Items 1 and 3 through 7)	\$ 61,925
Sarpy County (50% of Items 1 and 3 through 7)	\$ 61,925



Giles Road @ 132nd St.
Sarpy County Project Number: C-77 (05-8)
TSA Project Number: 05040.001

Preliminary Project Cost Estimate

<u>Interim T Intersection</u>	Quantity	Unit	Unit Cost	Total
Paving	14,150	Sq Yd	\$35	\$495,250
Bridge	0	Sq Ft	\$120	\$0
Earthwork	25,000	Cu Yd	\$6	\$150,000
Misc. for Conc. Paving	1,900	Lin Ft	\$28	\$53,200
Misc. for Grading	1,900	Lin Ft	\$35	\$66,500
Misc. for Drainage	1,900	Lin Ft	\$90	\$171,000
Remove Bridge	0	Each	\$60,000	\$0
Bridge Approach Slabs	0	LS	\$100,000	\$0
MSE Wall at I 80	5,390	Sq Ft	\$35	\$188,650
Relocate Power Pole (Special)	1	Each	\$110,000	\$110,000
Traffic Signals	2	Each	\$100,000	\$200,000
Railroad Crossing	0	Each	\$375,000	\$0
			Construction	\$1,434,600
Const. Eng. (6%)	\$86,076			
Contingency (15%)	\$215,190			
		→	E+C	\$301,266
			Construction + Const. Eng.	\$1,735,866
Engineering (12%)	\$172,152			
Utilities (2.9%)	\$41,603	→	Engineering + Util. + ROW	\$293,755
R.O.W. =	\$80,000			
Est. 0.8 Acres @ \$100,000 per acre			Estimated Cost =	\$2,029,621

Portion To Remain for Ultimate Design (Credit) Single Point Alternative

See Page 4

Estimated Credit = \$1,391,066

Portion To Remain for Ultimate Design (Credit) 2 Intersection Alternative

See Page 4

Estimated Credit = \$1,304,018

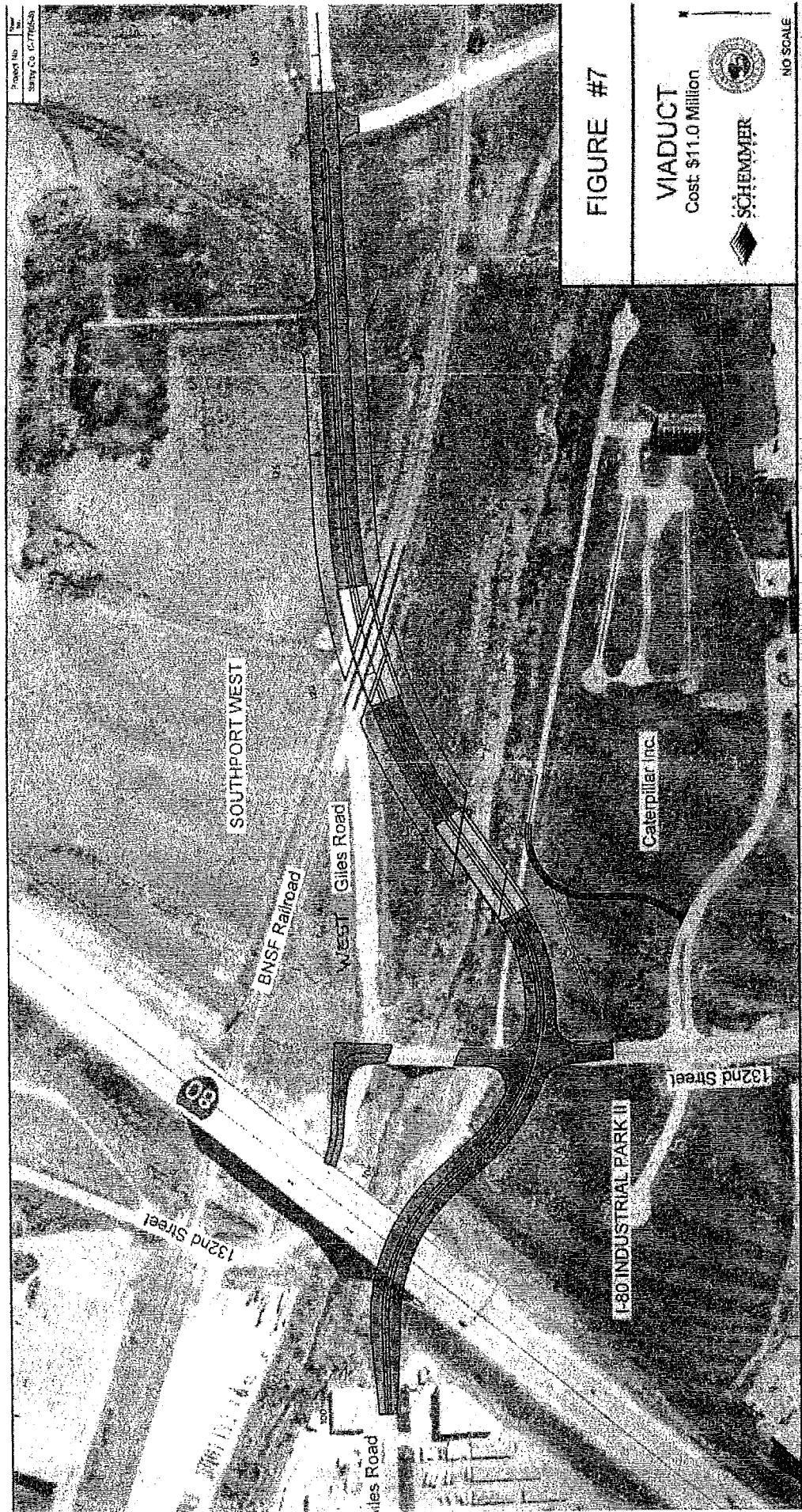
PHASE 2 – SHORT TERM IMPROVEMENTS – 132ND ST. & W. GILES ROAD

ESTIMATED COSTS:

As shown on Page 2 of Exhibit "B" the total estimated costs for the Short Term Improvements (aka "interim Improvements") are \$2,029,621. Rounded off, use a cost of \$2,000.000.

ALLOCATION OF COSTS:

Federal Highway Administration	\$1,600,000 (80%)
City of La Vista	\$ 200,000 (10%)
Sarpy County	\$ 200,000 (10%)



Giles Road @ 132nd St.
Sarpy County Project Number: C-77 (05-8)
TSA Project Number: 05040.001

12/5/2006

<u>Viaduct</u>	Quantity	Unit	Unit Cost	Total
Paving	23,100	Sq Yd	\$33	\$762,300
Bridge Over Papio 235' x 80'	19,000	Sq Ft	\$75	\$1,425,000
Bridge Over BNSF 125' x 80'	10,000	Sq Ft	\$100	\$1,000,000
Earthwork (w/ Walls 74' Lt/Rt)	331,000	Cu Yd	\$4	\$1,324,000
Misc. for Conc. Paving	3,700	Lin Ft	\$25	\$92,500
Misc. for Grading	3,700	Lin Ft	\$35	\$129,500
Misc. for Drainage	3,700	Lin Ft	\$85	\$314,500
Remove Bridge	0	Each	\$60,000	\$0
Bridge Approach Slabs	2	LS	\$100,000	\$200,000
MSE Wall at I-80	5,390	Sq Ft	\$35	\$188,650
MSE Walls Rail Road	64,000	Sq Ft	\$35	\$2,240,000
Relocate Power Pole (Special)	1	Each	\$100,000	\$100,000
Traffic Signals	1	Each	\$90,000	\$90,000
Railroad Crossing	0	Each	\$375,000	\$0
				<u>\$7,866,450</u>
Const. Eng. (8%)	\$629,316		E+C	<u>\$1,415,961</u>
Contingency (10%)	\$786,645		Construction + E&C	<u>\$9,282,411</u>
Engineering (10%)	\$786,645			
Utilities (2.9%)	\$228,127		E + Util. + ROW	<u>\$1,729,156</u>
R.O.W. =	\$714,384			
Est. 8.2 Acres @ \$87,120 per acre			Estimated Cost =	<u>\$11,011,567</u>

Notes:

Lighting, Signing, Guard Rail, Phasing etc. not included in estimate.
Misc. for Conc. Paving includes items such as subgrade prep., water, shoulder constr. and mobilization
Misc. for Grading includes items such as removals, general clear & grub., erosion control and mobilization
Misc. for Drainage includes items such as storm sewer, culverts and mobilization
RR X-ing Est. signalized w/gates 4-lane divided \$350,000 to \$450,000 per NDOR/Abe Anshasi 2/8/06

PHASE 3 – LONG TERM IMPROVEMENTS – 132ND ST. & W. GILES ROAD

ESTIMATED COSTS:

As shown on Page 2 of Exhibit "C" the total estimated costs for the Long Term Improvements (aka "Interim Improvements") are \$11,011,567. Assuming that the Short Term Improvements are constructed first, then there would be a credit against the Long Term Improvement Costs for the portion of the Short Term Improvements that can be left in place or salvaged. This estimated credit is \$1,049,679. The net cost of the Long Term Improvements is then \$9,961,888. Round off, use a cost of \$10,000,000.

ALLOCATION OF COSTS:

Federal Highway Administration	(80%-90%)
City of La Vista	(5-10%)
Sarpy County	(5-10%)

Note: Funding levels by FHWA may be lower than shown depending on NDOR policy requirement to close two at-grade railroad crossings in conjunction with funding an overpass project.

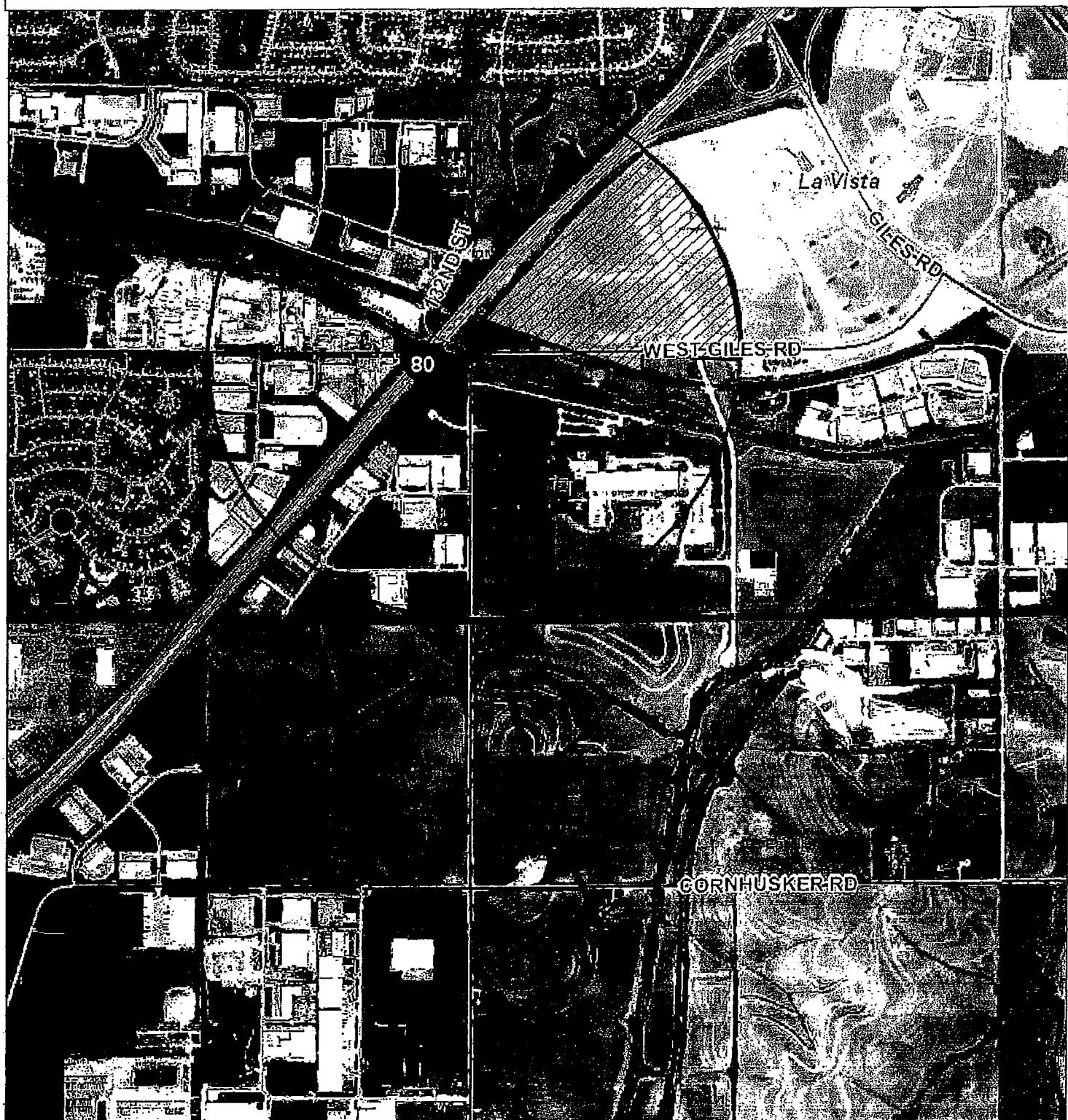
132nd & Giles

"Area A"
ETJ

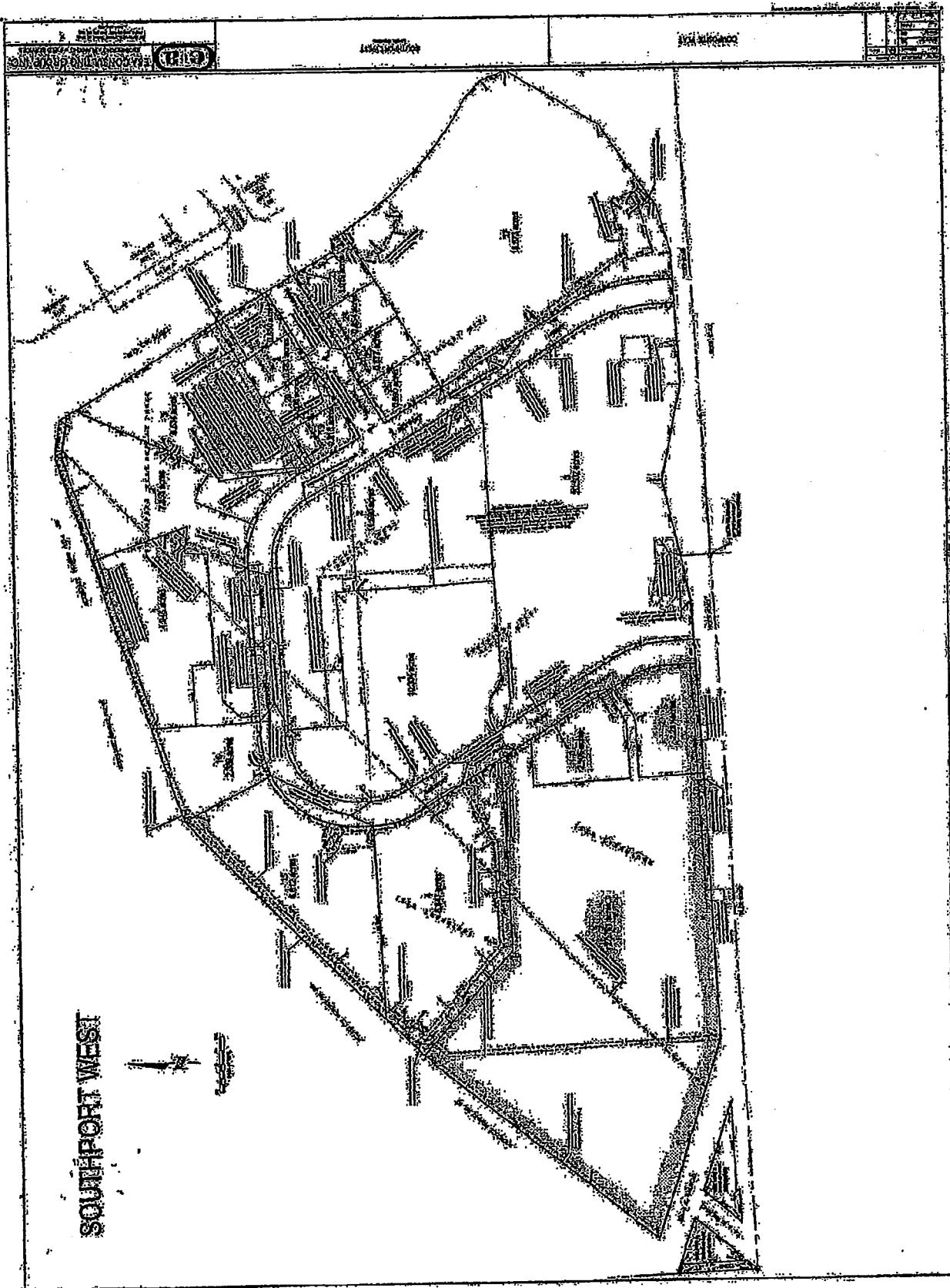
Current City Limits

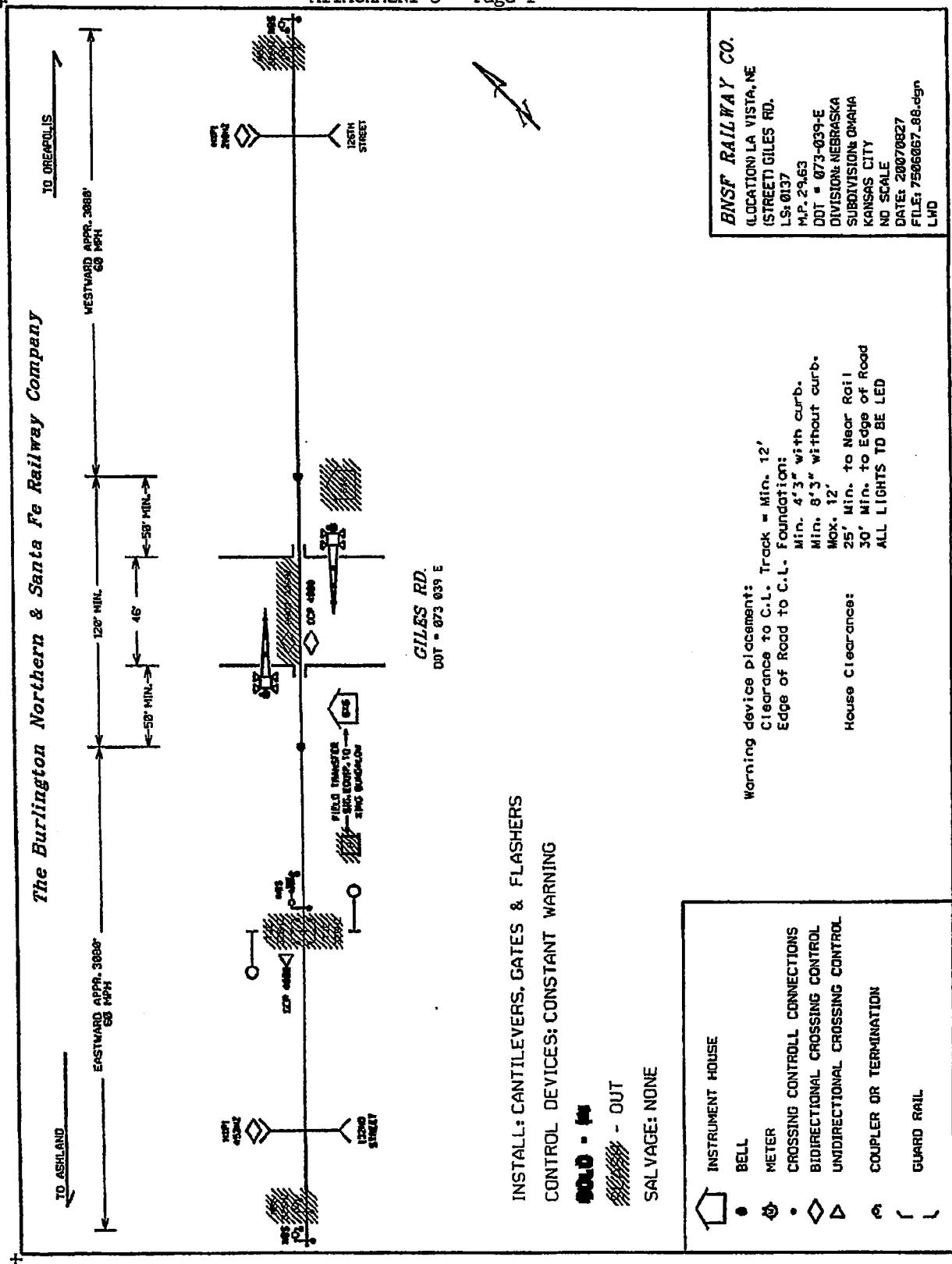
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Not "Area A"



ATTACHMENT 2





ATTACHMENT 3 - Page 2

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****					
THE B. N. S. F. RAILWAY COMPANY FPM ESTIMATE FOR NEBRASKA					
LOCATION:-	CHALCO	DETAILS OF ESTIMATE	PLAN ITEM:	PS107303982	VERSION: 1
PURPOSE, JUSTIFICATION AND DESCRIPTION					
INSTALL CONSTANT WARNING AT GILES RD IN LA VISTA, NE. NEBRASKA DIV., OMAHA SUBDIV., L/S 0137, M.P. 29.63, DOT # 0730398. MONTHLY POWER UTILITY COST CENTER : 61856					
THE MATERIAL LIST BELOW REFLECTS TYPICAL REPRESENTATIVE PACKAGES USED FOR ESTIMATING PURPOSE ONLY. THEY CAN BE EXPECTED TO CHANGE AFTER THE ENGINEERING PROCESS, DETAILED AND ACCURATE MATERIAL LISTS WILL BE FURNISHED WHEN ENGINEERING IS COMPLETED. CONTINUING CONTRACTS HAVE BEEN ESTABLISHED FOR PORTIONS OF SIGNAL WORK ON THE BNSF RAILROAD. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.					
***** SIGNAL WORK ONLY *****					
THE CITY OF LA VISTA, NEBRASKA IS FUNDING THIS PROJECT 100%.					
MAINTAIN PROPRIETARY CONFIDENTIALITY.					
DESCRIPTION	QUANTITY	U/M	COST	TOTAL \$	

LABOR					

SIGNAL FIELD LABOR - CAP	448.00	MH	9,776		
SIGNAL SHOP LABOR - CAP	64.00	MH	1,447		
PAYOUT ASSOCIATED COSTS			8,218		
EQUIPMENT EXPENSES			2,966		
DA LABOR OVERHEADS			11,258		
INSURANCE EXPENSES			1,766		
TOTAL LABOR COST			35,491	35,491	

MATERIAL					

BATTERY	1.00	EA N	1,120		
BUNGALOW 6X6	1.00	EA N	8,612		
BUNGALOW MATERIAL	1.00	LS N	1,399		
CABLE	1.00	ER N	3,096		
CHARGERS	1.00	LS N	810		
CONDUIT, PVC 4", SCH 80	60.00	FT N	234		
CONSTANT WARNING	1.00	EA N	23,429		
DUMMY LOAD	2.00	EA N	942		
FIELD MATERIAL	1.00	LS N	4,073		
LAMP RESISTOR	1.00	EA N	761		
LIGHT OUT DETECTOR	1.00	EA N	682		
RECORDER	1.00	EA N	2,220		
RTU-6, CELLULAR MONITOR	1.00	EA N	2,060		
SHUNT, NBS	3.00	EA N	2,544		
USE TAX			3,943		
OFFLINE TRANSPORTATION			722		
TOTAL MATERIAL COST			62,547	62,547	

OTHER					

CONTRACT ENGR.	1.00	EA N	5,000		
FILL DIRT	10.00	CY N	250		
SURFACE ROCK	10.00	CY N	250		
TOTAL OTHER ITEMS COST			5,500	5,500	
PROJECT SUBTOTAL			103,478		
CONTINGENCIES			10,347		
BILL PREPARATION FEE			570		
GROSS PROJECT COST			114,395		
LESS COST PAID BY BNSF			0		
TOTAL BILLABLE COST			114,395		