

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 5, 2022 AGENDA

Subject:	Type:	Submitted By:
REPLAT & SUBDIVISION AGREEMENT – LOTS 23-26 SOUTHPORT WEST AND LOT 1 SOUTHPORT WEST REPLAT 4 (SOUTHPORT WEST REPLAT NINE)	◆ RESOLUTION (2) ORDINANCE RECEIVE/FILE	CHRISTOPHER SOLBERG DEPUTY COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

Resolutions have been prepared to approve a replat, designated as Lots 1-4 and Outlot A, Southport West Replat Nine, and a subdivision agreement to allow for the development of four lots and an outlot, located on approximately 10.59 acres in Southport West.

FISCAL IMPACT

None.

RECOMMENDATION

Approval, subject to completion of all requirements and conditions specified in the Planning Division Recommendation Report included with this agenda item.

BACKGROUND

Resolutions have been prepared to consider applications submitted by Southport West Partners LLC for a replat, designated as Lots 1-4 and Outlot A, Southport West Replat Nine, and subdivision agreement to allow for the development of four lots and one outlot on approximately 10.59 acres currently platted as Lots 23-26 Southport West and Lot 1 Southport West Replat Four. The site is located southwest of the intersection of Giles Road and Southport Parkway, east of Cabela's.

The original plat for this property was approved on November 1, 2004. A subsequent replat (Southport West Replat 4) was approved on February 26, 2008. In addition to current proposal to amend the Southport West PUD to allow for the development of the northern two lots, an additional PUD amendment will be needed at the time of the development of the southern two lots included in this replat.

A detailed staff report is attached.

The Planning Commission held a meeting on May 5, 2022 and voted unanimously to recommend approval of the Replat for a commercial development contingent on the satisfactory resolution of the issues stated within the staff report prior to City Council approval, as the Replat request is consistent with the Comprehensive Plan and the Subdivision Regulations.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, FOR APPROVAL OF THE REPLAT FOR LOTS 23-26 SOUTHPORT WEST TOGETHER WITH LOT 1 SOUTHPORT WEST REPLAT FOUR, TO BE REPLATTED AS LOTS 1 THRU 4 AND OUTLOT A SOUTHPORT WEST REPLAT NINE, A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., IN SARPY COUNTY, NEBRASKA.

WHEREAS, the owners of the above described property applied for approval of a replat for Lots 23-26 Southport West, together with Lot 1 Southport West Replat Four, to be replatted as Lots 1 thru 4 and Outlot A Southport West Replat Nine; and

WHEREAS, the City Engineer has reviewed the replat; and

WHEREAS, on May 5, 2022, the La Vista Planning Commission held a meeting and reviewed the replat and recommended approval.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the replat for Lots 23-26 Southport West, together with Lot 1 Southport West Replat Four, to be replatted as Lots 1 thru 4 and Outlot A Southport West Replat Nine, a subdivision located in the southeast quarter of Section 18, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, generally located south of the intersection of Southport Parkway and Giles Road, be, and hereby is, approved, subject to adoption and execution of the corresponding Subdivision Agreement presented at this Council meeting.

PASSED AND APPROVED THIS 5TH DAY OF JULY 2022.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A SUBDIVISION AGREEMENT FOR SOUTHPORT WEST REPLAT NINE.

WHEREAS, the City Council did on June 21, 2022, approve of Southport West Replat Nine subject to certain conditions; and

WHEREAS, the Subdivider, Southport Partners, LLC, as owner of the affected lots agreed to execute a Subdivision Agreement satisfactory in form and content to the City;

NOW THEREFORE, BE IT RESOLVED, that the Subdivision Agreement be and hereby is approved and the Mayor and City Clerk be and hereby are authorized to execute the same on behalf of the City, subject to any specified conditions of Council and any revisions that the City Administrator or City Engineer may determine necessary or advisable.

PASSED AND APPROVED THIS 5TH DAY OF JULY 2022.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

 CITY OF LA VISTA
PLANNING DIVISION
LA VISTA RECOMMENDATION REPORT

CASE NUMBERS: PRP22-0002;

FOR HEARING OF: JULY 5, 2022
REPORT PREPARED ON: MAY 11, 2022

I. GENERAL INFORMATION

A. APPLICANT:

Southport West Partners, LLC
832 S. 249th Street
Waterloo, NE 68069

B. PROPERTY OWNER:

Southport West Partners, LLC
832 S. 249th Street
Waterloo, NE 68069

C. LOCATION: Southwest of the intersection of Giles Road and Southport Parkway.

D. LEGAL DESCRIPTION: Lots 23-26 Southport West, together with Lot 1 Southport West Replat Four.

E. REQUESTED ACTION(S): Replat to allow for commercial development with shared parking.

F. EXISTING ZONING AND LAND USE: C-3 Highway Commercial/Office Park District, Gateway Corridor District (Overlay District), and Southport West PUD District (Overlay District); the properties are currently vacant.

G. PURPOSE OF REQUEST: Authorize a Replat with shared parking to allow for commercial development.

H. SIZE OF SITE: Approximately 10.59 acres.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE: The existing site is vacant ground. The property slopes gradually downward to the southeast;

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

<u>Direction From Subject Property</u>	<u>Future Land Use Designation</u>	<u>Current Zoning Designation</u>	<u>Surrounding Development</u>
Northwest	Commercial	C-3 PUD Highway Commercial / Office Park District with a Planned Unit Development Overlay (Overlay District) and a Gateway Corridor Overlay (Overlay District);	Embassy Suites
Northeast	Commercial	C-3 PUD Highway Commercial / Office Park District with a Gateway Corridor Overlay (Overlay District);	Vacant
Southeast	Commercial	C-3 PUD Highway Commercial / Office Park District with a Planned Unit Development Overlay (Overlay District) and a Gateway Corridor Overlay (Overlay District);	Vacant
West	Commercial	C-3 PUD Highway Commercial / Office Park District with a Planned Unit Development Overlay (Overlay District) and a Gateway Corridor Overlay (Overlay District);	Cabela's

C. RELEVANT CASE HISTORY:

1. The PUD Plan and Ordinance for Southport West was originally approved on December 21, 2004.
2. The PUD Ordinance for Southport West was last amended on February 16, 2016.
3. Southport West Replat Four was approved on February 26, 2008.

D. APPLICABLE REGULATIONS:

1. Section 5.12 of the Zoning Regulations – C-3 Highway Commercial / Office Park District.
2. Section 5.15 of the Zoning Regulations – PUD Planned Unit Development District (Overlay District).
3. Section 5.17 of the Zoning Regulations – Gateway Corridor District (Overlay District).
4. La Vista Subdivision Regulations.

III.

ANALYSIS

A. COMPREHENSIVE PLAN:

1. The Future Land Use Map of the Comprehensive Plan designates the area for commercial uses.

B. OTHER PLANS: N/A.

C. TRAFFIC AND ACCESS:

1. Primary access to the site will be at an intersection at 125th and Portside Parkway. A second access will be added with the construction of Phase 2 to the south, as depicted in the conceptual PUD Site Plan within the Southport West Replat Nine – Phase 1 map set.
2. Applicant has provided a traffic impact study (TIS) in relation to the development of this project. The study, dated March 2022, finds that traffic is generally anticipated to operate with acceptable delay.
3. If a traffic signal is warranted at the intersection of 125th and West Giles Road, based on proposed revisions to the TIS, the signal will need to be constructed in conjunction with this project.
4. The review of the TIS also concluded that various pedestrian improvements are needed at the intersection of 125th/Westport Parkway and Southport Parkway.
5. Applicant should install all access and signage improvements as recommended in the revised Traffic Impact Study.

D. UTILITIES:

1. The property has access to sanitary sewer, water, gas, power, and communication utilities.

E. PARKING REQUIREMENTS:

1. Parking will be addressed through the PUD Site Plan amendments for each phase of development within the Replat area.

F. LANDSCAPING:

1. The landscaping for any developments on this site will need to comply with the requirements of the Zoning Ordinance and of the Southport West Design Guidelines.

IV.

REVIEW COMMENTS:

- A. The design of the buildings and the overall site will be reviewed through the City's Architectural Design Review process and must be substantially complete prior issuance of any building permits.

- B. Applicant has been made aware that developments on this property will require FAA approval prior to the issuance of a building permit due to proximity of the Millard Airport.
- C. The development will be required to meet the requirements for a Post Construction Storm Water Management Plan as per City regulations.
- D. A subdivision agreement, outlining necessary public improvements, is attached to this staff report.

V. STAFF RECOMMENDATION – SOUTHPORT WEST REPLAT NINE:

Approval of Southport West Replat Nine as the Replat request is consistent with the Comprehensive Plan and the Subdivision Regulations.

VI. PLANNING COMMISSION RECOMMENDATION – REPLAT:

The La Vista Planning Commission held a meeting on May 5, 2022 and voted unanimously to recommend approval of Southport West Replat Nine, contingent upon satisfactory resolution of the issues stated within the staff report prior to City Council approval, as the Replat request is consistent with the Comprehensive Plan and the Subdivision Regulations.

VII. STAFF RECOMMENDATION – SUBDIVISION AGREEMENT:

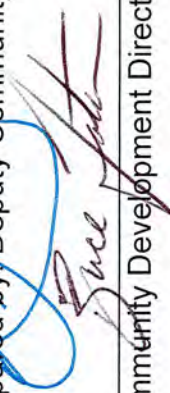
Approval of the subdivision agreement for Southport West Replat Nine, with any revisions that the City Administrator or City Engineer may determine necessary or advisable, as the Replat request is consistent with the Comprehensive Plan and the Subdivision Regulations.

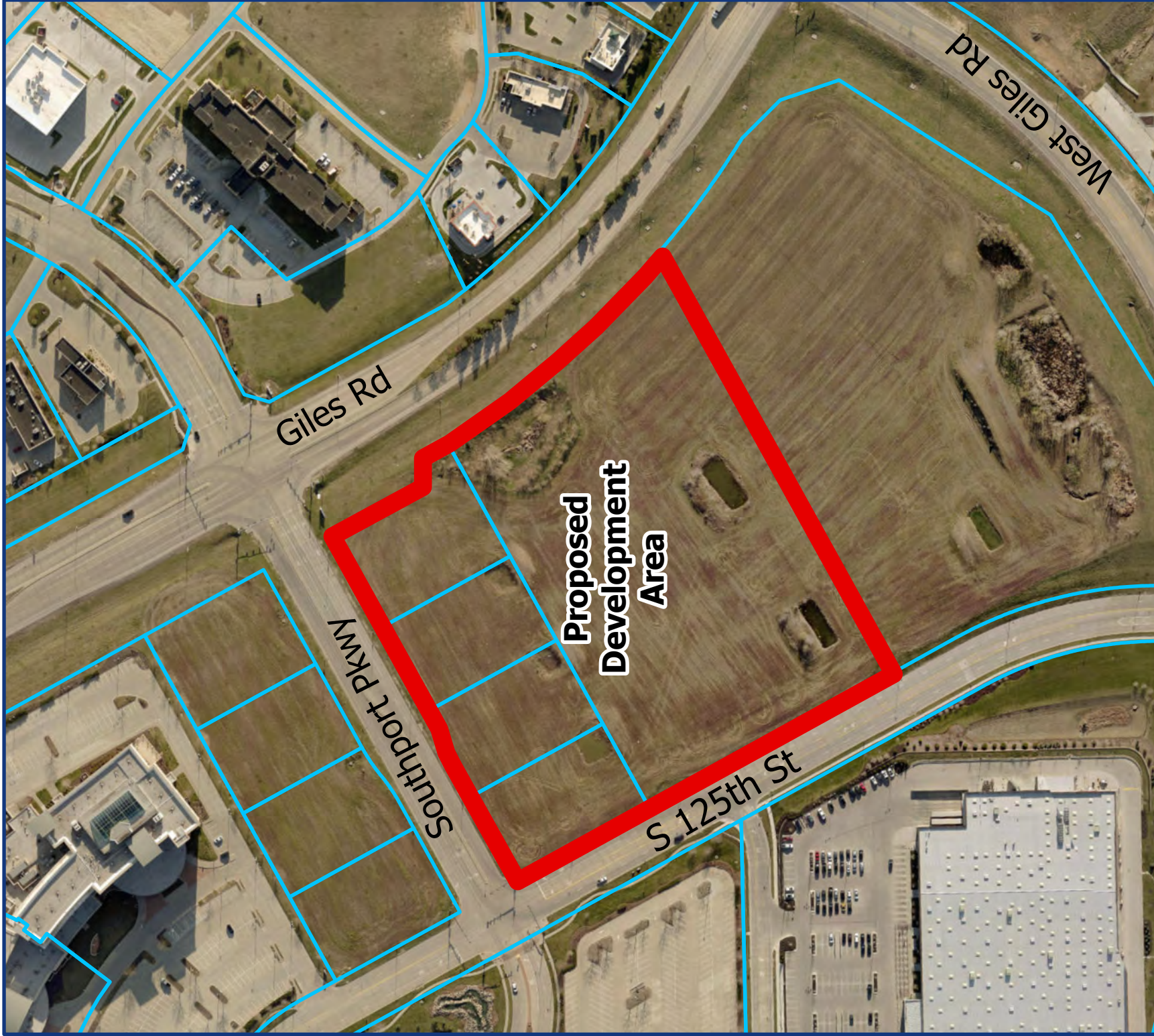
VIII. ATTACHMENTS TO REPORT:

- A. Vicinity Map
- B. Review Letters
- C. Draft Replat map set
- D. Subdivision Agreement

IX. COPIES OF REPORT SENT TO:

- A. Pat Kerrigan, Southport West Partners
- B. Eric Williams, Olsson Associates
- C. Public Upon Request

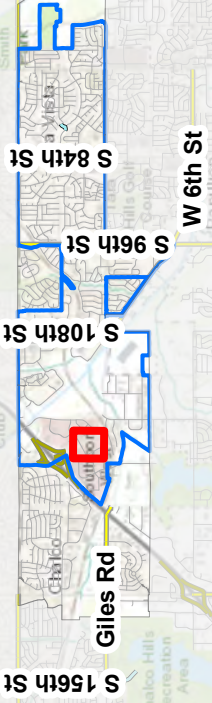

Prepared by: Deputy Community Development Director

Community Development Director
6/24/22
Date



Vicinity Map: Southport West Replat Nine

Legend

-  La Vista Parcels
-  Proposed Replat Area





April 6, 2022

Eric Williams
Olsson Associates
2111 N 67th Street, STE 200
Omaha, NE 68106

RE: Southport Parkway Replat Nine – Initial Review Letter
Preliminary and Final Plat
Lots 23-26 Southport West and Lot 1 Southport West Replat Four

Mr. Williams,

We have reviewed the documents submitted for the above-referenced application. Based on the elements for consideration set forth in the applicable sections of the Subdivision Regulations, the City has the following comments:

1. Please include phasing lines on the preliminary plat if the development will be constructed in phases, per Section 3.03.02 of La Vista's Subdivision Regulations.
2. Per Section 3.03.07, please include all existing utilities, with their sizes indicated, as well as flowlines, elevations of existing sanitary sewers, water mains and storm water drainage.
3. Per Section 3.03.10, please include all easements, including any cross-lot easements and any proposed easements to be vacated. Although a cross-access easement exists on the original plat for Southport West, it should be reiterated on this plat, along with a cross-parking easement.
4. Easements to be vacated shall be completed prior to the recording of the replat, per Section 3.03.12.

8116 Park View Blvd. La Vista, NE 68128-2198 402.331.4343 P 402.331.4375 F	City Hall	Community Development	Library	Police	Public Works	Recreation
	8116 Park View Blvd. 402.593.6400 P 402.593.6445 F	9110 Giles Rd. 402.537.3900 P 402.537.3902 F	7701 S. 96th St. 402.331.1582 P 402.331.7210 F	9900 Portal Rd. 402.331.8927 P 402.331.1051 F	8116 Park View Blvd. 402.331.3455 P 402.331.0299 F	

5. Please provide copies of the erosion control plan, per Section 3.03.16.
6. Regarding Section 3.03.19, a traffic impact analysis has been submitted by the applicant and is currently under review by the City's traffic engineering consultant. Any comments and/or recommended improvements by the City's consultant and/or further comments by the City will need to be addressed.
7. Complete utility plans, including the post-construction stormwater management plans, will need to be reviewed prior to the issuance of a building permit, per Section 3.03.20.
8. Per Section 3.05.09, please provide the square footage of the proposed lots.
9. Per Section 3.05.11 and 3.05.18, please provide a statement from the title company if there are no mortgage holders on the property.
10. Per Section 3.05.25, the preparation of an acceptable subdivision agreement will be required prior to action by City Council. A template agreement will be provided. Please submit a first draft with your next submittal.
11. The proposed access along Southport Parkway is currently platted as a right out-only, however paving plans show what appears to be a right in, right out access. Please adjust the access constraints in plat accordingly.
12. Confirm that the 125th Street Access to Lot 3 is consistent with the alignment and geometry of the west leg of the 125th Street and Portside Parkway intersection.
13. The access to 125th Street from Lot 3 and the 125th Street access to Lot 4 are within close proximity to each other. Confirm there are no concerns, such as offsetting complementary turning movements that could cause concern due to intersection proximity.
14. In review of the Overall Site Exhibit, it does not appear that the conceptual level paving layout accounts for internal circulation between the proposed Phases 1 and 2 along the phase line at the east end of the project. The applicant should complete the conceptual paving layout to a level that accounts for the alley width, return radii, and extents of paving required for orderly internal circulation between the two phases.
15. The stormwater conveyed through the lots to the water quality basin will likely require easements.

Please resubmit 2 paper copies of the Preliminary and Final Plats (including electronic copies) to the City for further review. A timeline for review by the Planning Commission and City Council will be determined based on the timing of the resubmittal and the extent to which the issues noted this review have been sufficiently addressed. If you have any questions regarding these comments, please feel free to contact me at any time.

Thank you,

A handwritten signature in blue ink, appearing to read "Christopher Solberg", is written over the printed name and title.

Christopher Solberg, AICP
Deputy Community Development Director
City of La Vista

csolberg@cityoflavista.org
(402) 431-6400

Cc: David Bernd – Cumming Investments, Inc.
Pat Kerrigan – Southport West Partners, LLC
Bruce Fountain, AICP – Community Development Director
Cale Brodersen, AICP – Assistant City Planner
Pat Dowse, P.E. – City Engineer

Comment Response: Preliminary and Final Plat Southport West -Letter dated 4/06/22

1. Please include phasing lines on the preliminary plat if the development will be constructed in phases, per Section 3.03.02 of La Vista's Subdivision Regulations.

Response: Phasing map has been included.

2. Per Section 3.03.07, please include all existing utilities, with their sizes indicated, as well as flowlines, elevations of existing sanitary sewers, water mains and storm water drainage.

Response: Existing utility information has been provided as requested.

3. Per Section 3.03.10, please include all easements, including any cross-lot easements and any proposed easements to be vacated. Although a Cross-access easement exists on the original plat for Southport West, it should be reiterated on this plat, along with a cross-parking easement.

Response: Cross access information has been updated and provided on the preliminary and final plat.

4. Easements to be vacated shall be completed prior to the recording of the replat, per Section 3.03.12.

Response: Per discussion, we will receive a letter from OPPD noting the vacation of easements immediately after recordation of the plat.

5. Please provide Copies of the erosion control plan, per Section 3.03.16.

Response: Provided

6. Regarding Section 3.03.19, a traffic impact analysis has been submitted by the applicant and is currently under review by the City's traffic engineering consultant. Any comments and/or recommended improvements by the City's consultant and/or further comments by the City will need to be addressed.

Response: Understood.

7. Complete utility plans, including the post-construction stormwater management plans, will need to be reviewed prior to the issuance of a building permit, per Section 3.03.20.

Response: Understood.

8. Per Section 3.05.09, please provide the square footage of the proposed lots.

Response: Square Footage has been added to both preliminary and final plat.

9. Per Section 3.05.11 and 3.05.18, please provide a statement from the title company if there are no mortgage holders on the property.

Response: Mortgage Statement has been added.

10. Per Section 3.05.25, the preparation of an acceptable subdivision agreement will be required prior to action by City Council. A template agreement will be provided. Please submit a first draft with your next submittal.

Response: Subdivision Agreement will be coordinated with ownership and the City.

11. The proposed access along Southport Parkway is currently platted as a right-out-only, however paving plans show what appears to be a right-in, right-out access. Please adjust the access constraints in the plat accordingly.

Response: Plat has been updated to include this as a right-in/right-out access.

12. Confirm that the 125th Street Access to Lot 3 is consistent with the alignment and geometry of the west leg of the 125th Street and Portside Parkway intersection.

Response: This has been reviewed and confirmed.

13. The access to 125th Street from Lot 3 and the 125th Street access to Lot 4 are within close proximity to each other. Confirm there are no concerns, such as offsetting complementary turning movements that could cause concern due to intersection proximity.

Response: Traffic engineer has reviewed and noted that traffic volume does not warrant concerns at this time with these movements.

14. In review of the Overall Site Exhibit, it does not appear that the conceptual level paving layout accounts for internal circulation between the proposed Phases 1 and 2 along the phase line at the east end of the project. The applicant should complete the conceptual paving layout to a level that accounts for the alley width, return radii, and extents of paving required for orderly internal circulation between the two phases.

Response: This map has been revised.

15. The stormwater conveyed through the lots to the water quality basin will likely require easements.

Response: Storm lines will be private and a private storm easement will be added for lines that cross properties to get to the basin.



April 22, 2022

Eric Williams
Olsson Associates
2111 N 67th Street, STE 200
Omaha, NE 68106

RE: Southport Parkway Replat Nine – 2nd Review Letter
Preliminary and Final Plat
Lots 23-26 Southport West and Lot 1 Southport West Replat Four

Mr. Williams,

We have reviewed the revised documents submitted for the above-referenced application. Based on the elements for consideration set forth in the applicable sections of the Subdivision Regulations, the City has the following comments:

1. Per Section 3.03.07, please include information on water mains, in addition to the existing sanitary sewers and storm water drainage lines that were included in the latest submittal. If water main information cannot be included in the resubmittal for Planning Commission, it must be completed prior to City Council packet preparation.
2. Per Section 3.03.10, the cross-access easement should be reiterated on this plat. A cross-parking easement also needs to be added to the Final Plat.
3. Regarding Section 3.03.19, a traffic impact analysis has been submitted by the applicant and is currently under review by the City's traffic engineering consultant. Any comments and/or recommended improvements by the City's consultant and/or further comments by the City will need to be addressed.

City Hall
8116 Park View Blvd.
La Vista, NE 68128-2198
402.331.4343 P
402.331.4375 F

Community Development
8116 Park View Blvd.
402.593.6400 P
402.593.6445 F

Library
9110 Giles Rd.
402.537.3900 P
402.537.3902 F

Police
7701 S. 96th St.
402.331.1582 P
402.331.7210 F

Public Works
9900 Portal Rd.
402.331.8927 P
402.331.1051 F

Recreation
8116 Park View Blvd.
402.331.3455 P
402.331.0299 F

4. The access to 125th Street from Lot 3 is also being evaluated by the City's traffic engineering consultant to confirm there are no concerns due to the intersection proximity.
5. Per Section 3.05.25, the preparation of an acceptable subdivision agreement will be required prior to action by City Council. Staff is currently reviewing the draft agreement submitted with the previous submittal. Comments will be provided upon completion of the review.
6. Note 4 on the Final Plat states that "no direct access shall be permitted onto Giles Road from Lots 1 and 2 or Outlot A". Lot 1 does not have frontage on Giles Road. Please revise this note to state that "no direct access shall be permitted onto Giles Road from Lots 1 and 3 or Outlot A"

Your application is currently on the agenda to be reviewed by the Planning Commission on May 5th, 2022 at La Vista City Hall (8116 Park View Blvd, La Vista, NE 68128) at 6:30pm. For this item to move forward at this May 5th Planning Commission meeting, please submit a revised PUD plan set to incorporate the changes mentioned in the comments above by close-of-business Tuesday, April 26th for packet preparation. Assuming that deadline is met, please have a representative in attendance at the May 5th Planning Commission meeting to introduce your request and answer any questions that the Planning Commission might have.

Thank you,



Christopher Solberg, AICP
Deputy Community Development Director
City of La Vista
csolberg@cityoflavista.org
(402) 431-6400

Cc: David Bernd – Cumming Investments, Inc.
Pat Kerrigan – Southport West Partners, LLC
Bruce Fountain, AICP – Community Development Director
Cale Brodersen, AICP – Assistant City Planner
Pat Dowse, P.E. – City Engineer

Comment Response: Preliminary and Final Plat Southport West -Letter dated 4/22/22

1. Per Section 3.03.07, please include information on water mains, in addition to the existing sanitary sewers and storm water drainage lines that were included in the latest submittal. If water main information cannot be included in the resubmittal for Planning Commission, it must be Completed prior to City Council packet preparation.

Response: Water main information has been added to the plans for reference.

2. Per Section 3.03.10, the cross-access easement should be reiterated on this plat. A cross-parking easement also needs to be added to the Final Plat.

Response: Per discussions, a note will be added to the Preliminary and Final Plat regarding cross parking for the lots.

3. Regarding Section 3.03.19, a traffic impact analysis has been submitted by the applicant and is Currently under review by the City's traffic engineering consultant. Any Comments and/or recommended improvements by the City's Consultant and/or further comments by the City will need to be addressed.

Response: Understood.

4. The access to 125th Street from Lot 3 is also being evaluated by the City's traffic engineering Consultant to confirm there are no concerns due to the intersection proximity.

Response: Understood. Discussions with traffic engineer noted with the traffic counts and speeds access is not a concern.

5. Per Section 3.05.25, the preparation of an acceptable subdivision agreement will be required prior to action by City Council. Staff is currently reviewing the draft agreement submitted with the previous submittal. Comments will be provided upon completion of the review.

Response: Understood.

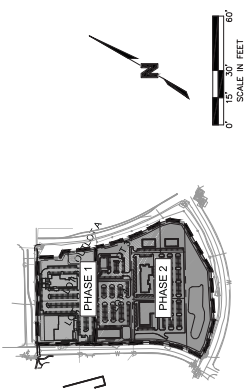
6. Note 4 on the Final Plat states that "no direct access shall be permitted onto Giles Road from Lots 1 and 2 or Outlot A". Lot 1 does not have frontage on Giles Road. Please revise this note to state that "no direct access shall be permitted onto Giles Road from Lots 1 and 3 or Outlot A"

Response: Note has been revised accordingly based on the relabeling of lots which occurred with the previous iteration.

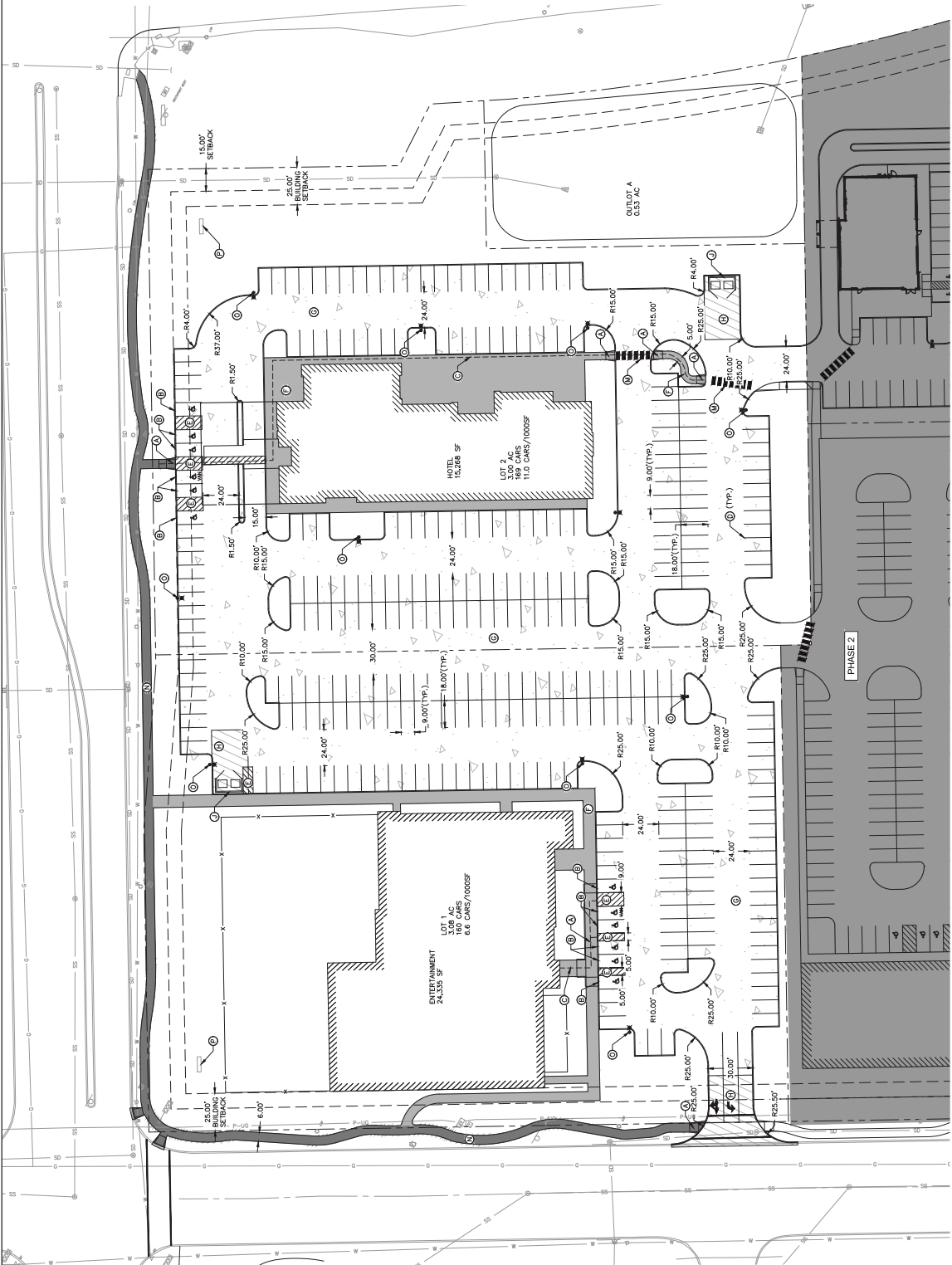
drawn by: _____
 checked by: _____
 approved by: _____
 QA/QC by: _____
 project no.: 072-2/014
 drawing no.: _____
 date: 02.1.22

SITE PLAN
PRELIMINARY PLAT SUBMITTAL
SOUTHPORT WEST REPLAT NINE
PHASE 1

LA VISTA, NE



LEGAL DESCRIPTION:	SITE INFORMATION TABLE					
	SOUTHWEST LOTS 1, 2, 3, 4, OUTLOT A	C-3 ZONING WITH A GATEWAY CORRIDOR OVERLAY	EXISTING ZONING:	PROPOSED ZONING:	SETBACKS:	
				25'-0"	FRONT YARD: (PARKING PRESENT IN FRONT YARD)	ONE-STALL PARKING: 160 STALLS (6.6 CARS PER 1,000 SF) & PUBLIC PARKING: (LOT 2 NEW BENTLEY ONE)
				50'-0"		(SEE BENTLEY ONE) RENTAL UNIT: 151 STALLS: MAX 8 FLOORS; REQUIRES 151 STALLS
				12'-0"	SIDE YARD:	PARKING: 169 STALLS (11.0 CARS PER 1,000 SF)
				13'	BUILDING COVERAGE:	431 STALLS
				62%	IMPERVIOUS COVERAGE:	329 STALLS
					PARKING REQUIREMENTS:	ACCESSIBLE PARKING:
					REQUIRED: (LOT 1)	6 (INCLUDING 1 VAN ACCESSIBLE STALL)
					PROVIDED: (LOT 1)	6 (INCLUDING 1 VAN ACCESSIBLE STALL)
					REQUIRED: (LOT 2)	6 (INCLUDING 1 VAN ACCESSIBLE STALL)
					PROVIDED: (LOT 2)	6 (INCLUDING 1 VAN ACCESSIBLE STALL)
					TOTAL REQUIRED:	12 (INCLUDING 2 VAN ACCESSIBLE STALLS)
					TOTAL PROVIDED:	12 (INCLUDING 2 VAN ACCESSIBLE STALLS)

[illegible]

uoss|o

2111 South 67th Street, Suite 200
Omaha, NE 68106
TEL 402.341.1116

2111 South 67th Street, Suite 200
Omaha, NE 68106

www.elsevier.com

REVISIONS

Omaha, NE 68106

WWW.CISSON.COM

WMG: F:\2022\00501-01000\022-00684\40-Design\AutoCAD\Preliminary Plans\Sheets\GNCV\C-GRD01-02200684.dwg
 USER: kondressen
 DATE: Apr 26, 2022 11:33am
 XREFS: C:\PBASE_02200684 C:\PBDY_02200684 C:\XBASE_02200684 C:\PTBLK_02200684



NOTES

1. CONTOURS REPRESENT TOP OF SLAB ELEVATION IN PAVED AREAS AND UNPAVED GRADE ELEVATION IN NON-PAVED AREAS.
2. CONTOUR SHALL PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING AND GROUND PAVED AREAS.
3. CONTRACTOR SHALL PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING AND GROUND PAVED AREAS.
4. REFERENCE THE GRADING INFORMATION TABLE FOR THE PROJECT.
5. REFERENCE THE ALL PLACEMENT / COMPACTION SPECIFICATIONS FOR THE PROJECT.
6. DEVELOPMENT ON PRIVATE LOTS CREATING MORE THAN 10,000 SQ. FT. OF IMPAVED SURFACE SHALL BE DESIGNED FOR WATER QUALITY AS REQUIRED BY SECTION 14.19 OF THE LA VISTA MOUNTAIN CDPES AND SHALL BE DESIGNED TO MAINTAIN STORM WATER DESIGN MANUAL SUCH AS THE CITY OF SAN ANTONIO'S DESIGN MANUAL FOR THE CITY OWNED FACILITIES. FLOW MANAGEMENT WILL BE PROVIDED BY THE CITY OWNED FACILITIES.



SUBDIVISION AGREEMENT

(Southport West Replat Nine)

(Replat of Lots 23, 24, 25, and 26 Southport West and Lot 1 Southport West Replat Four, which shall henceforth be replatted as

Lots 1, 2, 3, 4, and Outlot A Southport West Replat Nine)

THIS AGREEMENT, made this 5th day of July, 2022, among Southport West Partners, LLC, a Nebraska limited liability company, (hereinafter referred to as "Subdivider" or "Developer"), the Southport Entry Association, a Nebraska non-profit corporation (hereinafter referred to as "Association"), and the City of La Vista, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, Subdivider is the owner of the land depicted or described in Exhibit "A" ("Property") and included within the proposed plat attached hereto as Exhibit "B" (hereinafter referred to as the "Replat" or the "Replatted Area". The Replat as finally approved by the City Council shall be referred to herein as the "final plat" or "Final Plat");

WHEREAS, Subdivider will develop and construct, or will convey some or all of the Property on which purchasers will develop and construct, buildings and other private improvements on the property in the Replatted Area in accordance with the Planned Unit Development Site Plan attached as Exhibit "L" and related exhibits ("Private Improvements" as depicted on Exhibit "C"), the Public Improvements, and any other improvements described in this Agreement;

WHEREAS, the Subdivider wishes to connect the system of sanitary sewers to be constructed within the Replatted Area to the sewer system of the City; and

WHEREAS, the Subdivider will create the Southport Entry Association as a Nebraska non-profit corporation to act as the Association under the Covenants (defined below). The members of the Southport Entry Association will be comprised of the Subdivider and Subdivider's successors and assigns to ownership of any of Lots 1, 2, 3, 4, and Outlot A Southport West Replat Nine, being a replat of Lots 23, 24, 25, and 26 Southport West and Lot 1 Southport West Replat Four, City of La Vista.

NOW, THEREFORE, IT IS AGREED by Subdivider, Developer, Association and City as follows:

1. Replattings. Subject to the terms of this Agreement, Lots 23, 24, 25, and 26 Southport West and Lot 1 Southport West Replat Four shall be replatted as Lots 1, 2, 3, 4, and Outlot A Southport West Replat Nine, as more fully shown on Exhibit "B" (hereinafter the "Replat" or "Replatted Area"; and as finally approved by the City Council shall be referred to as the "final plat" or "Final Plat").

2. Public Improvements. Development of the Private Improvements and Replatted Area necessitates the following public improvements (“Public Improvements”) connected with the safety and efficiency of pedestrian and vehicular traffic.
- a. Perimeter Sidewalks. Subdivider at its sole cost and expense shall install sidewalks shown in Exhibit “M” (“Sidewalks”) in accordance with applicable laws, rules, or regulations, including without limitation applicable City sidewalk policies, as they may from time to time exist. Such Sidewalks shall be installed with Private Improvements and shall be completed before any Certificate of Occupancy shall be issued for any Private Improvements within the Replatted Area.
 - b. Crosswalk Improvements. Subdivider at its sole cost and expense shall design and construct the 125th Street Crosswalk Improvements and Giles Road Crosswalk Improvements described in this subsection 2b (together “Crosswalk Improvements”). Within twelve months of the date of this Agreement, Subdivider shall: (i) design, construct, and complete Crosswalk Improvements located on the south side of the intersection of Southport Parkway and 125th Street, as described or depicted in Exhibit “I” (the “125th Street Crosswalk Improvements”), and (ii) complete improvements of the crosswalk ramps on the southwest corner of the intersection of Giles Road and Southport Parkway, as described or depicted in Exhibit “J” (the “Giles Road Crosswalk Improvements”). No Certificate of Occupancy shall be issued for any Private Improvements within the Replatted Area until Subdivider completes construction of the 125th Street Crosswalk Improvements, as provided herein. City shall be responsible for the design, construction, and completion of all crosswalk improvements located on the east side of the intersection of Giles Road and Southport Parkway.
 - c. Traffic Signal Improvements. Subdivider shall contribute to the costs and expenses for the design, construction, and completion of the traffic signal improvements described in Exhibit “N” at the intersection of 125th Street and West Giles Road. Costs and expenses of such traffic signal improvements shall be shared, and the portion of the total cost to be paid by Subdivider shall be an amount equal to Fifty Thousand and 00/100 Dollars (\$50,000.00) (the “Subdivider Contribution”). City shall be the lead agent in the design, construction and completion of the traffic signal improvements. Subdivider shall pay the Subdivider Contribution to City to be held in escrow until such time City, as determined by the City Engineer, commences construction of the traffic signal improvements. If City does not commence construction of the traffic signal improvements within five (5) years from the date of this Agreement, City shall immediately refund to Subdivider the Subdivider Contribution, together with accrued interest thereon, and Subdivider shall have no further obligation to contribute to the costs and expenses for the design, construction, and completion of the traffic signal improvements, as provided herein. Financial assurances for the traffic signal improvements shall be provided to the City pursuant to Section 9 of this agreement.

All plans, specifications, and contracts connected with such Public Improvements shall be in form and content satisfactory to the City Engineer, and subject to review and approval of the City Engineer prior to award, execution, or commencement of the work. All work connected with the Public Improvements shall be subject to inspection to the satisfaction of the City Engineer.

3. Drainage Calculations and Map. Developer shall provide drainage calculations and a drainage map for the Replatted Area for review and approval by the City Engineer prior to City's execution and release of the final plat to the Subdivider for filing with the Sarpy County Register of Deeds, demonstrating easements required to convey major storm sewer events (hundred year flood) over the surface of the property, in a form and content satisfactory to the City's Engineer. The City's release of the final plat shall be conditioned on Subdivider executing and delivering required easements in form and content satisfactory to the City's Engineer, which easements Subdivider will record with the final plat.

4. Storm Water Management Plan: Subdivider, at its sole cost and expense, will comply with applicable requirements regarding storm water quality, storm water management, and weed and erosion control to the satisfaction of the City Engineer. Not in limitation of the foregoing sentence, post-construction storm water management features and related appurtenances shall be constructed on the Property, as shown on the Post Construction Storm Water Management Plan attached hereto as "Exhibit D." Plans, specifications, and construction schedules for such storm water management improvements shall be prepared by Subdivider's engineer at Subdivider's sole cost and expense, and must be approved by the Public Works Department of City (City Engineer) prior to starting construction of such improvements.

5. Storm Water Management Plan Maintenance Agreement: A Post-Construction Storm Water Management Plan Maintenance Agreement ("Maintenance Agreement") in the form attached hereto as "Exhibit E" shall be entered into between Subdivider and City prior to starting construction of such improvements described in Section 4, after Exhibits have been attached thereto in form and content satisfactory to the City Engineer, including but not limited to the exhibit setting forth the BMP maintenance requirements, subject to any additions, subtractions, or modifications to said Maintenance Agreement or Exhibits that the City Engineer determines necessary or advisable. It is understood and agreed by City and Subdivider that the final version of the Maintenance Agreement shall:

- (A) identify that maintenance actions shall be private, and provide that all maintenance actions so identified shall be performed by the Subdivider at its expense,
- (B) include provisions to control when post-construction storm water features are to be constructed,

- (C) differentiate between the requirements of construction site storm water runoff controls and post-construction controls,
- (D) provide that post-construction storm water features shall not be installed until such time as they will not be negatively impacted by construction site runoff, and
- (E) provide that permanent storm water detention ponds, riser structures and discharge pipes may be constructed during grading operations.

Such provisions shall run with the land and become the joint and several responsibility of all successors, assigns and future owners of the Replatted Area or any part thereof.

Watershed Management Fees: The Subdivider shall make payment to City for Watershed Fees. This fee for the Property described in “Exhibit A” and shown in “Exhibit B” shall be computed in accordance with applicable provisions of the Master Fee Schedule set forth in the Master Fee Ordinance, as amended from time to time. Payment must be made to City’s Permits & Inspections Division before a building permit will be issued to construct improvements on any lot and before the commencement of construction of any such improvements. Payment shall be based on the City’s adopted fee rate that is in effect at the time the payment is made. For example, based on the rate of \$5,345 per acre of commercial development effective July 1, 2022, the fees would be as follows:

Lot 1, Southport West Replat Nine	3.08 ± AC @ \$5,345 / AC	
\$16,462.60		
Lot 2, Southport West Replat Nine	3.00 ± AC @ \$5,345 / AC	
\$16,035.00		
Lot 3, Southport West Replat Nine	1.63 ± AC @ \$5,345 / AC	
\$8,712.35		
Lot 4, Southport West Replat Nine	2.88 ± AC @ \$5,345 / AC	
<u>\$15,393.60</u>		
	Total:	\$56,603.55

6. Site Approval Precondition to Building Permit. Nothing in this Agreement shall be deemed a waiver or lessening of any City requirements, including without limitation any requirements for a City approved site plan prior to the issuance of any building permit.

7. Public Access Roads or Driveways. Direct vehicular access to abutting streets shall be limited as indicated on the Replat, as finally approved by the City in the final plat. Roads and driveways identified in Exhibit “F” for use of the public shall be constructed to City approved specifications and shall not be less than seven inches (7”) P.C. concrete paving. The City shall have access to and over such roadways and driveways for any purpose it deems appropriate in the exercise of

its general governmental powers, including but not limited to, inspection, police, fire and rescue and other public safety purposes, and the exercise of all rights granted to City by the terms of the Subdivision Agreement.

8. Staking Bond. Developer shall provide the City a staking bond satisfactory to City Engineer prior to City's release of the final plat of the Replatted Area.

9. Financial Guarantees. Before City releases the final plat to Subdivider for filing with the Sarpy County Register of Deeds, Subdivider shall (a) provide to the City Administrator, City Engineer, or any designee of the City Administrator or City Engineer irrevocable bank letters of credit, surety bonds, or other financial guarantees for the benefit of the City in form and content satisfactory to such City Administrator, City Engineer, or designee in the amount of 110% of the total estimated cost to design and construct the Sidewalks as set forth in Exhibit "M" and the Crosswalk Improvements set for in Exhibit "I" and Exhibit "J" (for the avoidance of doubt, the amount of any bank letters of credit, surety bonds, or other financial guarantees shall not apply to or otherwise include any sewer connections fees, as required under Section 10, or the Subdivider Contribution provided under Section 2(c)), or (b) complete construction of the Sidewalks as set forth in Exhibit "M" and construction of the Crosswalk Improvements as set for in Exhibit "I" and Exhibit "J" and provide as-constructed drawings, records, certificates of completion and other documentation required by and satisfactory to the City Engineer. Subdivider warrants to City, for a period of two years following completion of construction of the Sidewalks and the Crosswalk Improvements and acceptance of such improvements by the City Engineer of City, that such construction shall have been performed using first quality materials, in a good and workmanlike manner, and in accordance with the plans and specifications approved by the City Engineer of City. Upon completion of the Sidewalks and the Crosswalk Improvements, Subdivider's engineer shall submit to the satisfaction of the City Engineer as-built records and drawings, a certification that the construction was performed and work and improvements were completed in substantial compliance with the design, plans, and specifications approved by the City Engineer prior to commencement of construction, and any other required documentation. If the Subdivider provides irrevocable bank letters of credit or surety bonds pursuant to subsection (a) of the foregoing sentence, the City, upon Subdivider completing construction of the Sidewalks and construction of the Crosswalk Improvements, shall promptly release such letters of credit or surety bonds to the Subdivider at such time as the Subdivider's engineer provides the required as-built records and drawings, certification of completion, and any other required documentation to the satisfaction of City Engineer.

Subdivider shall require any contractor providing or constructing the Public Improvements, or any part thereof, to provide to Subdivider and City a performance bond, a labor and materials payment bond, and a two-year maintenance bond regarding such construction work, with Subdivider and City named as co-obligees on such bonds. Such bonds shall be in form and content satisfactory to City, and shall have one or more sureties thereon who are authorized to write such bonds in the State of Nebraska.

Financial guarantees required by this Section 9 shall be additional to any surety bonds or other financial guarantees required by any other provisions of this Agreement or otherwise required in connection with any development or improvements within the Replatted Area.

10.

Tract Sewer Connections and Connection Fees. Developer agrees that the terms and conditions for the benefit of the City that are contained in the Subdivision Agreement dated June 30, 2005 and the First Amendment to the Subdivision Agreement dated August 30, 2007 (Instrument number 2007-28607) shall be incorporated into this Agreement to the same extent as if fully set forth herein and, except as modified by this Agreement, shall continue in effect and be binding on Developer and the Replatted Area, including without limitation provisions connected with the sanitary sewer system that, together with the separate Sewer Connection Agreement referred to within Exhibit "G", shall be applicable to the private sanitary sewer provided for herein and enforceable by City. Provided, however, the Sewer Connection Agreement and private sanitary sewer shall be subject to any additions, subtractions, or modifications as the City Engineer determines necessary or advisable. Subdivider shall pay applicable tract sanitary sewer connection fees based on rates in effect when a lot connects to the sanitary sewer system. An initial payment of tract sanitary sewer connection fees shall be due and payable to the City in the following amounts prior to the issuance of a building permit for a particular lot:

Lot 1, Southport West Replat Nine 3.08 ± AC @ \$7,777 / AC
\$23,953.16

Lot 2, Southport West Replat Nine 3.00 ± AC @ \$7,777 / AC
\$23,331.00

Lot 3, Southport West Replat Nine 1.63 ± AC @ \$7,777 / AC
\$12,676.51

Lot 4, Southport West Replat Nine 2.88 ± AC @ \$7,777 / AC
\$22,397.76

Total: \$82,358.43

The aforesated fee of \$7,777 per acre is the rate now in effect and is subject to increase. The rate in effect at time of connection to the sanitary sewer system will be the rate paid, and any additional amounts owed shall be paid when a lot is connected to the sanitary sewer system. For the avoidance of doubt, the City shall not issue any building permit for a particular lot until the tract sanitary sewer connection fees due and payable for that particular lot have been paid to the City.

Notwithstanding any other provisions of this Agreement, City retains the right to disconnect the sanitary sewer of any sewer user within the area to be developed which is connected or discharging into the sanitary sewer system in violation of any applicable ordinances, statutes, rules, or regulations.

11. Infrastructure to be a Private Expense. The cost of all infrastructure, improvements and easements within the Replatted Area, or required to be constructed by Subdivider pursuant to the terms of this Agreement, including but not limited to parking and street improvements within the Replatted Area, ingress and egress, the Crosswalk Improvements, and sidewalks, sanitary sewer, storm sewer, power, CATV, gas, water, electrical or other utilities within the Replatted Area, and the cost of connection to external infrastructure, shall be constructed, maintained, and replaced at the sole cost and expense of Subdivider or of any successor or assign of Subdivider to ownership of any lot within the Replatted Area, and no part thereof shall be the responsibility of or at the expense of the City. For the avoidance of doubt, except for payment of the Subdivider Contribution, as provided under Section 2(c) of this Agreement, Subdivider and Subdivider's successors or assigns to ownership of any lot within the Replatted Area shall have no obligation whatsoever for the traffic signal improvements located at the intersection of 125th Street and West Giles Road, as provided under Section 2(c) of this Agreement and further described in Exhibit "N", including, but not limited to, any obligation for the design, construction, completion, repair, maintenance, replacement, or payment of any cost and expense related to the same.

12. Easements. Proposed easements by the Subdivider, and easements required by the City, as set forth in Exhibits "B", "C", and "H," for existing, proposed, or relocated public or private or shared improvements or areas in connection with development or uses of the Replatted Area, including without limitation sewers, utilities, roads, parking, or other infrastructure or improvements, shall be granted by instruments separate from the final plat, in form and content satisfactory to the City Engineer ("Easements"). Release of the final plat for recording shall be conditioned on execution and delivery of Easements for recording. The Easement documents shall outline rights, obligations and terms of the easements. Easements shall be recorded at the time of recording the final plat and copies of recorded Easements shall be provided to the City. Any proposed modification of any Easements shall be subject to approval of, and in form and content satisfactory to, the City Engineer, and recording of the modification by the Subdivider immediately after said approval is provided. In addition to, and not in limitation of, any provisions of this Section 12, the Property and Replatted Area shall be subject to such additional easements as specified by the final plat or other documents filed with the Sarpy County Register of Deeds from time to time, including without limitation, a permanent reciprocal parking easement pursuant to Note 4 of the final plat, which provides for common, shared usage by pedestrians and vehicles of all drives and parking areas within the Replatted Area for ingress, egress, and parking of vehicles of owners, tenants, licensees, employees, directors, officers, agents, contractors, customers, vendors, suppliers, visitors and invitees of or to any lot within the Replatted Area ("Cross-Parking Easement"). Easements provided in the final plat shall be effective upon filing the final plat with the Sarpy County Register

of Deeds. The Cross-Parking Easement shall be subject to any conditions specified in the Covenants (defined in Section 15 below).

13. Special Assessments. If the lots within the Replatted Area are subject to special assessments that have been levied, prior to delivery of the plat to Developer, Developer shall have either (1) paid all installments and accrued interest on such special assessments in full, or (2) have paid the principal and all accrued interest to date on delinquent installments and shall have reapportioned the remaining principal and interest thereon to the lots as configured by the final plat. Such reapportionment shall be computed in a manner acceptable to the City Engineer. Such written reapportionment agreement and recording thereof with the County Treasurer's written acceptance thereof shall be provided to City by Subdivider at Subdivider's expense.

14. Ownership Representation. Southport West Partners, LLC, by signing below and the Final Plat of Southport West Replat Nine, does warrant and represent that it has executed the Final Plat and this Agreement by and through an authorized person, and that it is and shall continue to be the sole owner of 100% of the Replatted Area at date of execution and recording of this Agreement and the final plat with the Sarpy County Register of Deeds, which shall occur contemporaneously before conveyance of any lot or interest in the Replatted Area.

15. Restrictive Covenants. Subdivider submitted proposed Declaration of Easements and Maintenance Agreements for Southport West Replat Nine, which are attached as Exhibit "K" ("Covenants"). As a condition of releasing the final plat to Subdivider for recording, the Covenants, with such additions, subtractions, or modifications as the City Engineer determines necessary or advisable, shall be executed and recorded by Subdivider as Declarant and sole owner of property in the Replatted Area, contemporaneously with the final plat and before any conveyance of any real property or interest in real property within the Replatted Area. The Covenants, in addition to provisions expressly set forth therein, shall be deemed to include covenants of required compliance with all (i) federal, state, county and city ordinances and regulations applicable to the property within the Replatted Area, (ii) requirements of this Agreement and (iii) other applicable requirements connected with maintenance, repair, replacement, ingress, egress, or use of common areas, infrastructure, or improvements. If Subdivider fails to timely and fully perform any of the Covenants regarding maintenance, repair, or replacement of the Replatted Area, the City, at its option but without any duty, may itself take such curative or remedial action as it determines appropriate, or cause such action to be taken, and assess any cost thereof against the Subdivider and applicable property within the Replatted Area, which assessment shall be a lien against such property and accrue interest at the maximum rate of interest allowed under applicable Nebraska Revised Statutes, as amended from time to time.

16. Covenants Running With the Land. The final plat and this Agreement and the obligations, understandings and agreements contained or incorporated herein constitute perpetual covenants running with the land, shall be recorded by Subdivider with the Register of Deeds of Sarpy County, Nebraska, and shall be

binding, jointly and severally, upon the Subdivider and Association, and all of their respective successors, assigns, lenders, mortgagees or others gaining or claiming any interest or lien in, to or against any property within the Replatted Area. The covenants herein shall be cumulative to, and not in lieu of, prior covenants running with the land, except to the extent this Agreement requires additional, greater or a higher standard of performance by Subdivider or Association. City shall have the right, but not the obligation, to enforce any and all covenants. It is further agreed that after City releases the final plat and this Agreement for recording, Subdivider promptly, and before any conveyance of real property within the Replatted Area or any interest therein, will record the same, along with any other documents or instruments required to be recorded, with the Register of Deeds of Sarpy County, Nebraska. It is expressly agreed, however, that City shall not release the final plat or this Agreement for recording until City is satisfied that Subdivider concluded (closed), or made arrangements satisfactory to the City to conclude (close), transactions required for the actual construction of Private Improvements within the Replatted Area to commence. It is further expressly agreed that, if the condition described in the immediately preceding sentence has not occurred within twelve (12) months after the date of this Subdivision Agreement, Subdivider shall not be entitled without the written consent of the City and any amendments of this Agreement or the Replat as the City Engineer determines necessary, to move forward with the project. Provided, however, the City Administrator periodically may extend the time for performance under this Section 16.

17.

Exhibit Summary. The Exhibits attached hereto and incorporated herein by this reference and made a part hereof, are as follows, the final form and content of which shall be subject to such additions, subtractions, or modifications as Developer or City staff determine necessary or appropriate and are satisfactory to the City Engineer:

Exhibit "A":	Land survey certificate showing boundary area to be replatted. Drawing and legal description.
Exhibit "B":	Replat of the area to be developed.
Exhibit "C":	Private Improvements
Exhibit "D":	Post Construction Storm Water Management Plan
Exhibit "E":	Post-Construction Storm Water Management Plan Maintenance Agreement
Exhibit "F":	Public Access Roads and Driveways
Exhibit "G":	Sewer Connection Agreement dated _____
Exhibit "H":	Easements
Exhibit "I":	125th Street Crosswalk Improvements
Exhibit "J":	Giles Road Crosswalk Improvements
Exhibit "K":	Declaration of Easements and Maintenance Agreements for Southport West Replat Nine
Exhibit "L"	Planned Unit Development Site Plan
Exhibit "M"	Sidewalks
Exhibit "N"	Public Improvements

18. Right to Enforce. Provisions of this Agreement may be enforced at law or in equity by the owners of land within the Replatted Area and may be enforced by the City at law, in equity or such other remedy as City determines appropriate. All rights and remedies of a party, whether specified in this Agreement or otherwise provided, are cumulative.
19. Incorporation of Recitals. Recitals at the beginning of this Agreement are incorporated into this Agreement by reference.
20. Nondiscrimination. Notwithstanding anything in this Agreement to the contrary, (i) each party agrees that neither it nor any subcontractor of the party shall discriminate against any employee or applicant for employment to be employed in the performance if this Agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, age, sex, disability, or national origin; and (ii) the City is a recipient of federal funds, and as a result all required contractual provisions related to such federal funds shall be deemed incorporated into this Agreement by this reference and binding upon the parties.
21. Assignment. This Agreement may not be assigned by any party without the express written consent of all parties.
22. Entire Agreement. This Agreement represents the entire agreement and understanding, and supersedes all prior understandings and agreements, written or oral, of the parties with respect to the matters expressly set forth in the provisions of this Agreement. The Agreement only may be amended by a written amendment executed by all parties. Headings of this Agreement solely are for convenience and shall not be used to construe meaning of any terms or conditions.
23. Severability. If any part of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable, the illegality or unenforceability shall not affect the remainder of this Agreement, and this Agreement shall be construed as if such illegal or unenforceable provision had never been included herein.
24. This Agreement shall be governed by Nebraska law. Any claim or dispute arising out of or resulting from this Agreement shall be filed and resolved in and by the District Court of Sarpy County, Nebraska. Each party agrees that it shall not directly or indirectly contest or challenge jurisdiction or venue of or in such Court.
25. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

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

[SIGNATURE PAGES FOLLOW]

CITY OF LA VISTA

ATTEST: _____
By _____ Mayor

By _____
City Clerk

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2022, before me a Notary Public, duly commissioned and qualified in and for said County, appeared _____, personally known by me to be the Mayor of the City of La Vista and _____, to me personally known to be the City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed, and the voluntary act and deed of said City.

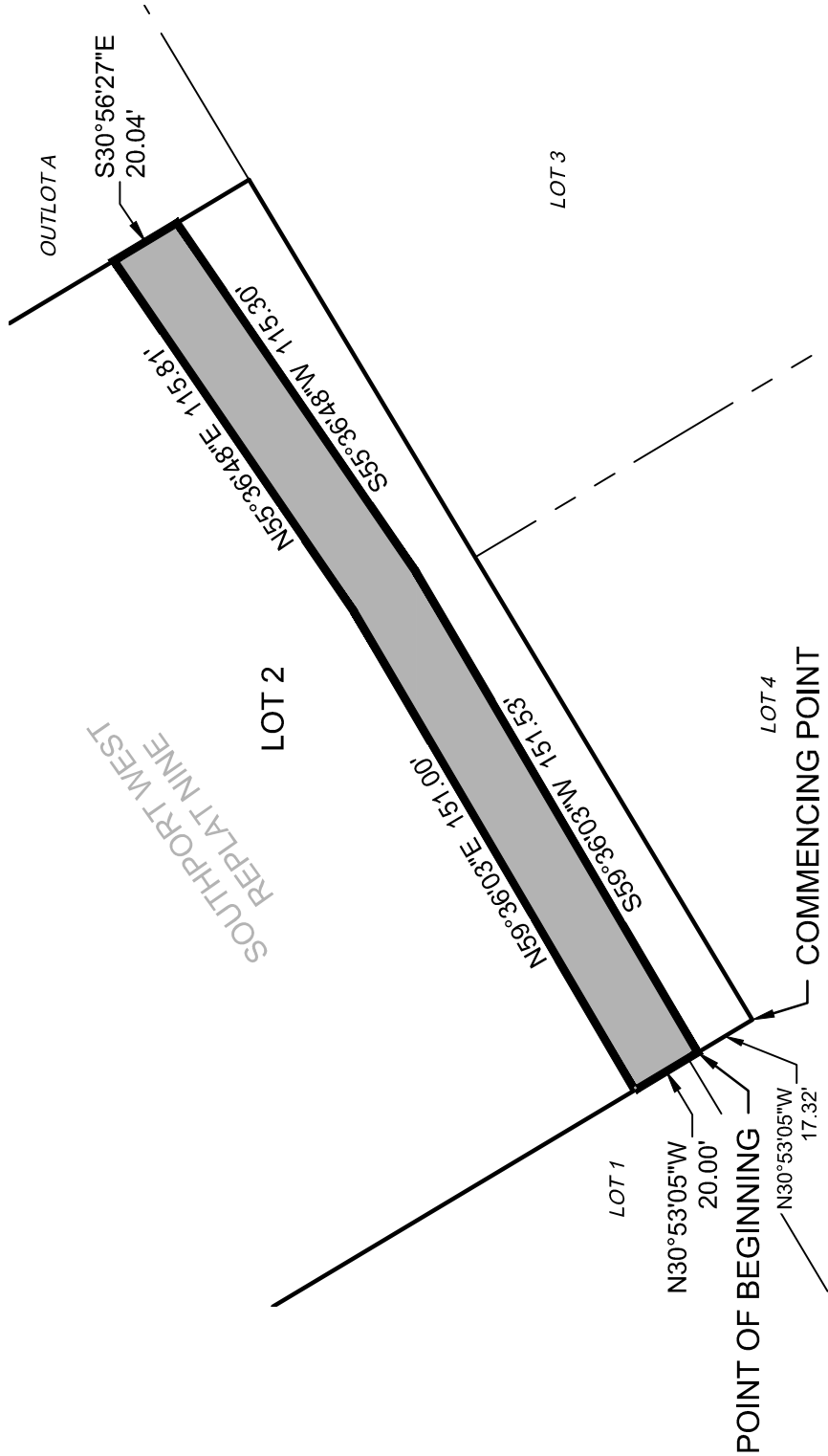
WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

EXHIBIT “A”

EXHIBIT “B”

EXHIBIT “C”



LEGAL DESCRIPTION

A 20.00 FOOT WIDE STORM SEWER EASEMENT LOCATED IN LOT 2, SOUTHPORT WEST REPLAT NINE, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2, SOUTHPORT WEST REPLAT NINE, THENCE ON THE WEST LINE OF SAID LOT 2 ON AN ASSUMED BEARING OF N30°53'05"W, 17.32 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ON SAID WEST LINE OF LOT 2 N30°53'05"W, 20.00 FEET; THENCE N59°36'03"E, 151.00 FEET; THENCE N55°36'48"E, 115.81 FEET TO A POINT ON THE EAST LINE OF SAID LOT 2; THENCE ON SAID EAST LINE OF LOT 2 S30°56'27"E, 20.04 FEET; THENCE S55°36'48"W, 115.30 FEET; THENCE S59°36'03"W, 151.53 FEET TO THE POINT OF BEGINNING.

SAID 20.00 FOOT WIDE STORM SEWER EASEMENT CONTAINS A CALCULATED AREA OF 5,336.36 SQUARE FEET OR 0.123 ACRES, MORE OR LESS.

PROJECT NO: 020-02003

DRAWN BY: DSH

DATE: 04/25/2022

STORM SEWER EASEMENT

olsson

2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1116

EXHIBIT

C

EXHIBIT “D”

EXHIBIT D

SOUTHPORT SOUTH – DRAINAGE REPORT

Prepared For:

City of La Vista

March 2022

Olsson Project No. 022-00684



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Appendices

Appendix A: Drainage Area Map
Appendix B: Drainage Basin Outlet Structure Detail
Appendix C: HydroCAD Report
Appendix D: UDFCD Water Quality Plate Design Spreadsheet (Version 3.0)

Executive Summary

This report contains basic data about the site, drainage basin identification information, drainage calculations, the post-construction stormwater management plan, and the 100-year overflow path. This report demonstrates that the proposed drainage system for this project meets the City of La Vista's current stormwater requirements including detention for the 2-, 10-, and 100-year storm events and applicable water quality standards. All required supporting documents can be found in the appendices.

This System Wide Drainage Report is being provided for the entire Southport South area. The project is located at the Southwest corner of Southport Parkway & Giles Road. The existing site consists of two drainage basins. The assumptions on pre-developed runoff rates for each discharge location should remain generally the same. In the proposed condition, drainage is directed into three (3) dry detention basin via overland flow and storm sewer piping as shown on the attached plan. Water quality requirements will be met with engineered outlet structure outlet structures within the ponds.



A. BASIC SITE DATA:

A.1. Site Information

- Existing Use: Agricultural Use
- Proposed Use: Industrial
- Property/Project Area: 22.32 Acres
- Disturbed Area (Including Off-site Area): 11.12 Acres

A.2. Methodology/Assumptions

- Basin Runoff and Detention Calculations: SCS Method, 2, 10, 100-year storms.
- Water Quality Calculations: Volume and Flow Rate Methods.
- Storm Sewer Sizing:
 - Rational Method, 10-year storm
 - Runoff Coefficient & Rainfall Intensity: Omaha Regional Stormwater Design Manual
 - RCP Pipe: $n=0.012$
 - HDPE Pipe: $n=0.012$.
- References:
 - Omaha Regional Stormwater Design Manual (2014)
 - UDFCD Water Quality Plate Design Spreadsheet (Version 3.0)
- Software:
 - HydroCAD (Version 10.00-24)

B. DRAINAGE BASIN IDENTIFICATION

The existing drainage basins are described in Table 1 below. Reference Appendix “A” for Drainage Basin Maps.

Table 1: Existing Drainage Basin Descriptions		
Basin Name	Basin Description	Discharge Location
EX-A1	Drainage Basin EX-A1 is approximately 24.17 acres in total. A majority of stormwater drains via overland flow to the South where it is drains to an existing detention basin, and discharges to Discharge Location A.	A
EX-B1	Drainage Basin EX-B1 is the largest drainage basin. The drainage area is approximately 32.27 acres in total. A majority of stormwater drains via overland flow to the South where it is drains to an existing detention basin, and discharges to Discharge Location B.	B

The proposed drainage basins are described in Table 2 below. Reference Appendix “A” for Drainage Basin Maps.

Table 2: Proposed Drainage Basin Descriptions		
Basin Name	Basin Description	Discharge Location
PR-A1	Drainage Basin EX-A1 is approximately 20.94 acres in total. A majority of stormwater drains via overland flow to the South where it is drains to a dry detention cell. This detention cell will treat and detain the stormwater runoff before discharging through a custom outlet structure to Discharge Location A.	A
PR-A2	Drainage Basin PR-A2 is approximately 8.37 acres in total. The drainage area is collected by a series of curb inlets where it is discharged into a dry detention cell. This detention cell will treat and detain the stormwater runoff before discharging through a custom outlet structure to Discharge Location A.	A
PR-B1	Drainage Basin EX-B1 is the largest drainage basin. The drainage area is approximately 22.82 acres in total. A majority of stormwater drains via overland flow to the South where it is drains to an existing detention basin, and discharges to Discharge Location B.	B
PR-B2	Drainage Basin PR-B2 is a small drainage basin that consist of approximately 2.85 acres in total. The drainage area is collected by a series of curb inlets where it is discharged into a dry detention cell. This detention cell will treat and detain the stormwater runoff before discharging through a custom outlet structure to an existing detention basin and finally discharging to Discharge Location B.	B

C. DRAINAGE CALCULATIONS:

The drainage calculations are summarized in Table 3 below. Reference Appendix "B" for HydroCAD Summary Sheets.

Table 3: Drainage Summary Table				
Basin	Area (Ac.)	Q ₂ (cfs)	Q ₁₀ (cfs)	Q ₁₀₀ (cfs)
Existing Basins				
EX-A1	24.10	65.65	95.20	127.07
EX-B1	34.03	44.81	82.48	124.74
Total	58.13	103.61	174.87	249.85
Proposed Basins				
PR-A1	20.79	50.67	79.03	115.88
PR-A2	8.37	24.47	39.54	59.06
PR-B1	22.82	55.61	86.75	127.19
PR-B2	2.85	9.39	14.94	22.13
Total	54.83	77.91	147.69	236.06

⁽¹⁾ Reference HydroCAD Summary Report

D. POST-CONSTRUCTION STORM WATER MANAGEMENT PLAN:

D.1. Requirements

According to the City of La Vista's Post Construction Stormwater Management Guidance, the requirements include detention and water quality treatment:

- Detention: "No net increase" in the 2, 10, and 100-year events.
- Water Quality Treatment: First $\frac{1}{2}$ " of runoff volume

D.2. Detention Summary

- Basin PR-A2: BMP 1 – extended dry detention basin.
- Basin PR-B1: BMP 2 – extended dry detention basin.

D.3. Water Quality Treatment Summary

- Basin PR-A2: BMP 1 – extended dry detention basin.
- Basin PR-B1: BMP 2 – extended dry detention basin

D.4. BMP 1: Detention Pond #1

- Basin: BMP-1
- Design: The bottom and top elevations of Detention Pond #1 are 1073.00' and 1082.00' respectively. A 30" diameter ADS Beehive nyloplast outlet structure will provide water quality in addition to controlling runoff rates. Water quality shall be provided for 29.16 acres of disturbed area.
- Required water quality storage volume: 52,925 CF (29.16 acres x 1,815 CF/ACRE)
- Proposed Water Quality Capture Volume: 109,101 CF @ EL: 1108.00'
- Reference Appendix "B" for Pond Outlet Structure Detail.
- Reference Appendix "C" for HydroCAD Results.
- Reference Appendix "D" for UDFCD Water Quality Plate Design Spreadsheet (Version 3.0)

D.5. BMP 2: Detention Pond #2

- Basin: BMP-2
- Design: The bottom and top elevations of Detention Pond #1 are 1068.00' and 1075.00' respectively. A 30" diameter ADS Beehive nyloplast outlet structure will provide water quality in addition to controlling runoff rates. Water quality shall be provided for 2.85 acres of disturbed area.
- Required water quality storage volume: 5,173 CF (4.89 acres x 1,815 CF/ACRE)
- Proposed Water Quality Capture Volume: 21,664CF @ EL: 1108.00'
- Reference Appendix "B" for Pond Outlet Structure Detail.
- Reference Appendix "C" for HydroCAD Results.
- Reference Appendix "D" for UDFCD Water Quality Plate Design Spreadsheet (Version 3.0)

EXHIBIT “E”

POST CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASEMENT

LAV-20211102-6164

WHEREAS, Southport Parkway LLC (hereinafter referred to as Property Owner) recognizes that stormwater management facility (hereinafter referred to as "the Facility", and defined as the specific infrastructure and improvements required to maintain compliance with the PCSMP) must be maintained for the development located at Southport West Replat Nine, Outlot A in the zoning jurisdiction of the City of La Vista , Sarpy County, Nebraska; and,

WHEREAS, the Property Owner (whether one of more) is the owner of the property described on Exhibit "A" attached hereto (hereinafter referred to as "the Property"), and,

WHEREAS, the City of La Vista (hereinafter referred to as "the City") requires and the Property Owner, and its administrators, executors, successors, heirs, tenants or assigns, agree that the health, safety and welfare of the citizens of the City require that the Facility be constructed and maintained on the property, and,

WHEREAS, the Post Construction Stormwater Management Plan, (hereinafter referred to as "PCSMP"), shall be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the Property Owner agrees as follows:

1. The Facility shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of La Vista or its designee.
2. The Property Owner must develop and provide the "BMP Maintenance Requirements", attached here to as Exhibit "B", which have been reviewed and accepted by the City of La Vista or its designee. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the Facility and include a schedule for implementation of these practices. The BMP Maintenance Requirements shall indicate that the Facility shall be inspected by a professional qualified in stormwater BMP function and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be maintained and available for review by the City. Records shall be maintained for a period of three years.
3. Except as otherwise set forth herein, the Property Owner, its administrators, executors, successors, heirs, or assigns, shall construct and perpetually operate and maintain, at its sole expense, the Facility in strict accordance with the attached BMP Maintenance Requirements accepted by the City of La Vista or its designee.
4. The Property Owner, its administrators, executors, successors, heirs, tenants, or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the Facility whenever the

- City deems necessary, on the condition that the City will maintain commercially reasonable access to the Property Owner, its successors, contractors, tenants, and invitees. In the event of The City's inspection may restrict or otherwise limit access to any portion of the Property, the City shall coordinate with the Property Owner to accommodate commercially reasonable access throughout the Property while facilitating the City's inspection. The City shall provide the Owner copies of the inspection findings and a directive to commence with the repairs if necessary. The City will require the Property Owner to provide, within 7 calendar days from the date of City's written directive, a written response addressing what actions will be taken to correct any deficiencies and provide a schedule of repairs within a commercially reasonable time frame. Whenever possible, the City shall provide notice prior to entry. The City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.
5. The Property Owner its administrators, executors, successors, heirs, tenants or assigns, agrees that should it fail to correct any defects in the Facility within a commercially reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City or its designee in its sole discretion, the City or its designee is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City or its designee deems necessary. Notwithstanding the foregoing, the City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.
 6. The City or its designee shall have the right to recover from the Property Owner any and all commercially reasonable costs the City expends to maintain or repair the Facility or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligence or intentional acts of the City. Failure to pay the City or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City or its designee shall thereafter be entitled to bring an action against the Property Owner to pay, or foreclose upon the lien hereby authorized by this agreement against the property, or both..
 7. The Property Owner shall not obligate the City to maintain or repair the Facility, and the City shall not be liable to any person for the condition or operation of the Facility.
 8. The Property Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence or maintenance of the Facility by the Property Owner. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim unless due solely to the negligence of the City in which event the City shall be required to defend any such suit at its own expense. Notwithstanding the foregoing, if any claims are made against both the City and the Property Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be

responsible for payment of any recovery to the extent determined in such suit. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all commercially reasonable costs and expenses directly associated with the operation, maintenance, or replacement of the Facility except to the extent caused by the negligence, intentional act, or failure to act on the part of the City.

9. The Property Owner shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
10. This Agreement shall be recorded with the Register of Deeds of Sarpy County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner (s) has/ have executed this agreement this ____ day of _____, 20 ____.

INDIVIDUAL, PARTNERSHIP and/or CORPORATION

Name of Individual, Partnership and/or Corporation

Name

Title

Signature

Name of Individual, Partnership and/or Corporation

Name

Title

Signature

ACKNOWLEDGMENT

_____)
State

_____)
County _____

On this _____ day of _____, 20____ before me, a Notary Public, in
and for said County, personally came the above named: _____

who is (are) personally known to me to be the identical person(s) whose name(s) is (are)
affixed to the above instrument and acknowledged the instrument to be his, her (their)
voluntary act and deed for the purpose therein stated.

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

Notary Public

Notary Seal

Exhibit "A"
Insert Real Property Depiction

PROJECT INFORMATION

Legal Description: Southport West Replat Nine, Lots 1, 2, 3, 4, & Outlot A
Property Address: SWC of Southport Parkway & Giles Road
Subdivision Name: Southport West
Sect.-Town-Rng.: 18-14N-12E

APPLICANT INFORMATION

Business Name: Southport West Partners, LLC
Business Address: 832 S. 249th Street Waterloo, NE 68069
Contact Representative's Name: Pat Kerrigan
Contact Representative's Phone Number:
Signing Representative's Name: Pat Kerrigan

Exhibit “B”
Insert BMP Maintenance Requirements

Name & Location

Project Name:

Southport South

Address:

SWC of Southport Parkway & Giles Road

PCWP Project Number:

PCSMP Project Number:

Site Data

Total Site Area:

11.12

Total Disturbed Area:

Total Undisturbed Area:

Impervious Area Before Construction:

Impervious Area After Construction:

BMP Information

BMP ID	TYPE OF BMP	Northing/Easting
BMP #1	Dry Detention Basin	41° 10' 46"N 96° 6' 20W

Routine Maintenance and Tasks Schedule

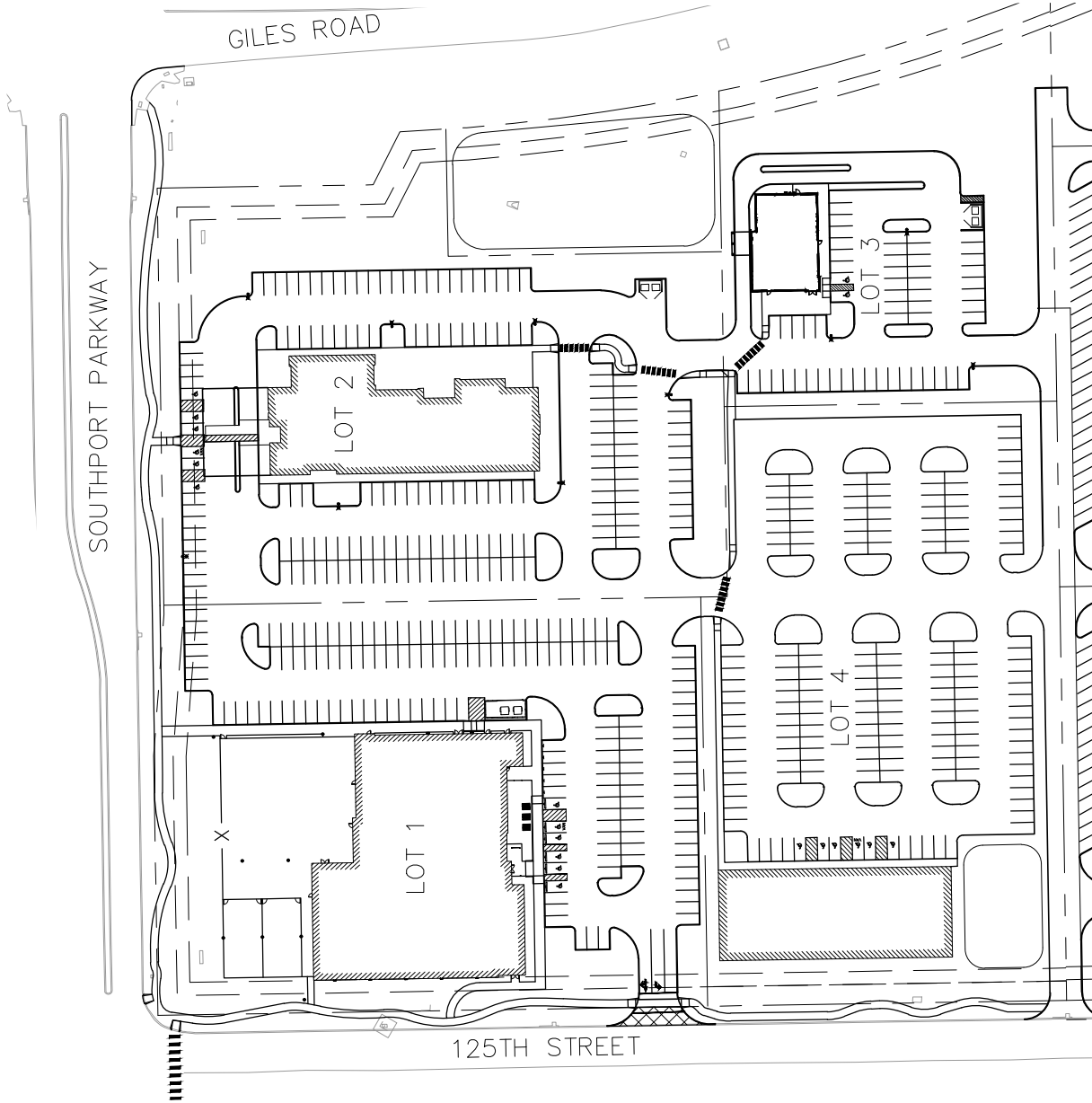
Dry Detention Basin/Pond Maintenance Tasks and Schedules

Task	Schedule
Remove debris and trash from trash rack and side slopes	Monthly
Outlet/inlet inspection and cleanup	Monthly
Bank mowing and inspection/stabilization of eroded areas	Monthly
Basin inspection and cleanup	Annually – remove sediment when 25% of storage volume has been lost below elevation 1,120.75'
Remove woody vegetation along embankment	Annually

Inspect for structural damage	Annually
Inspect, exercise all mechanical devices	Annually
Repair broken pipes	As needed
Replace filtration riprap that has been choked with sediment	As needed
Security	As needed

Inspection Reports should be completed and kept on file with the Inspector and at the store location. Reports should be kept for a minimum of five years.

EXHIBIT “F”



PROJECT NO: 022-00684

DRAWN BY: ELW

DATE: 06/28/2022

PUBLIC ACCESS ROADS OR DRIVEWAYS



2111 South 67th Street,
 Suite 200
 Omaha, NE 68106
 TEL 402.341.1116

EXHIBIT

F

EXHIBIT “G”

Southport West Replat Nine, Lots 1, 2, 3, & 4
SEWER CONNECTION AGREEMENT
(Sanitary Sewer System)

THIS AGREEMENT, made and entered into in La Vista, Nebraska, on this _____ day of _____, by and between the City of La Vista, a Municipal corporation in the State of Nebraska (hereinafter referred to as "City"), and Southport West Partners, LLC, a Nebraska limited liability company (hereinafter referred to as "Owner");

W I T N E S S E T H:

WHEREAS, the Owner has constructed or is contemplating constructing sanitary sewer services within Southport West Replat Nine, Lots 1, 2, 3, & 4, a subdivision, shown on Exhibit "A" hereto; and

WHEREAS, Owner desires to provide for the flow, transportation and handling of sewage collected in or flowing into the sanitary sewer services constructed or to be constructed by it, and has requested the City to permit flowage thereof into the City sewerage system, and to provide for the processing of such sewage.

NOW, THEREFORE, in consideration of the mutual agreements and covenants of the parties hereto, the sufficiency of which is hereby acknowledged, it is agreed by and between the parties as follows:

I

For the purposes of this Agreement, the term "sewer system of the Owner" shall include, whether now in existence or hereafter constructed, all sanitary sewers, sanitary sewer services and appurtenances thereto which are shown on Exhibit "B" attached hereto.

For the purposes of this Agreement, the following, whether now in existence or hereafter constructed, shall be deemed a part of the sewer system of the City:

- A. Any sanitary sewer or system of sanitary sewers owned by the City; and
- B. Any sanitary sewer or system of sanitary sewers not a part of the sewer system of the Owner and not owned by City, but through which City has an easement, license or other right or other license to transport sanitary sewage.

II

Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the Owner to connect the sanitary sewer system of the Owner to the sanitary sewer system of the City in such manner and at such place or places as designated on plans submitted by the Owner and approved by the City.

III

Owner expressly promises, warrants, covenants and agrees that:

- A. The sewer system of the Owner will be constructed and, as required, reconstructed in strict accordance with the plans and specifications and location approved in writing by the City and in

- strict accordance with the minimum standards and requirements of construction adopted by City.
- B. The sewer system of the Owner shall be designed and constructed, and as required reconstructed, at the expense of Owner and the property therein and at no expense to the City.
- C. The sewer system of the Owner shall comply with all applicable Federal and State laws and regulations in general and with all applicable laws and regulations of the City, with reference to use, operation and maintenance of the system.
- D. The sewer system of the Owner shall at all times be properly maintained and kept in good operating order and repair at no cost to City. The Owner's obligation in this connection shall survive the term of this Agreement to the extent provided in Paragraph IV, *infra*.
- E. In the event that City's engineers find that there is anything in the construction, maintenance or operation of the sewer system of the Owner which will, in the opinion of City's engineers, be detrimental to the proper operation of the sewer system of City, or any part thereof, the Owner will, on notice thereof, promptly correct said defect.
- F. In the event the Owner for any reason fails in any respect as to its covenants contained in this Paragraph III, then City may, at its option, perform such maintenance and repair or correct such defects and the Owner, upon written demand by City, shall promptly reimburse City for all work, services, materials and other expenses incurred or expended by City in connection therewith.
- G. At all times all sewage flowing into, passing through or from the sewer system of the Owner shall be in conformity with the ordinances, regulations and conditions applicable to sewage and sewers within the City, as they may change from time to time. In no event shall Owner, without prior written consent of City, permit or suffer any type of sewage to flow into, pass through or from the sewerage system of the Owner, in violation of such ordinances, regulations and conditions.
- H. In respect to any industrial use or connection to the sewer system of the Owner, the City may condition such approval upon such terms as it deems necessary to protect the sewer systems of the Owner and the City.
- In furtherance of the foregoing, the Owner shall, whenever necessary, provide at their expense such preliminary treatment as may be necessary to meet the applicable ordinance, regulation or condition. Such preliminary treatment facilities shall be maintained continuously in satisfactory and effective operation at no expense to the City.
- The Owner shall allow any duly authorized representative of City to enter upon such property at reasonable times for the purpose of inspection, observation, measurements, sampling and testing of sewage.
- I. The Owner shall not cause, suffer or permit to be connected to the sewer system of the Owner any sewer lines or sewers serving, directly or indirectly, any area outside its boundaries.
- J. The Owner is, or at time of construction will be, the Owner of the entire proposed sanitary sewer system situated within its boundaries.
- K. The Owner will indemnify and save harmless the City, its officers, employees and agents, from all construction costs, loss, damage, claims and liability of whatsoever kind or character due to or arising out of any acts, conduct, omissions or negligence of the Owner, its officers, agents, employees, contractors, subcontractors and anyone acting under the direction of the Owner, in doing any work or construction of the sewer system of the Owner, or by or in consequence of any performance of the obligations of this Agreement.

- L. The Owner shall promptly file all reports, pay all connection fees and perform all other obligations of the Owner provided for in this Agreement or otherwise required by state statutes or the City's ordinances as amended and supplemented from time to time.
- M. Subject to the provisions of Paragraph V, infra, the Owner is and shall be bound to and by any provisions of any ordinance, rule or regulation relating to sewer use fees provided for under said Paragraph V, infra, hereinafter made and adopted by City or Sarpy County.
- N. Any water distribution system serving the Owner shall be constructed and operated by the Metropolitan Utilities District.

IV

The herein granted easements and licenses to City and the herein contained covenants of perpetual maintenance and repair by the Owner shall be perpetual, notwithstanding the fact that this Agreement is for a term of 20 years.

V

Owner further expressly promises, warrants, covenants and agrees that no connection shall be made to the sewer system of the City until a permit therefore shall have been obtained from City and the appropriate connection fee paid to City. Owner shall:

- A. Require the person, firm or entity to whose property the connection is being made to:
 - 1. pay to City the applicable sewer connection fees as prescribed by the ordinances of the City of La Vista in effect at the time of the connection;
 - 2. obtain from the City a permit to so connect, as may be required by the ordinances of the City of La Vista in effect at the time of the connection.
- B. Enter into agreements as shall be necessary to:
 - 1. assure the said obtaining of a permit from City and payment of connection fees to City;
 - 2. require the disconnection of any connection made to the sewer system of the City which shall have been made without the proper permit from the City and payment of connection fees to City;
 - 3. assure that all connections to the sewer system of the City will be made in accordance with applicable ordinances, regulations and specifications.
- C. Upon the demand of City, the Owner shall pay to City the amount of any connection fee owing City for any connection to the sewer system of the Owner or of the City which shall not have been previously paid to the City by the person, firm or entity to whose property the connection shall have been made.
- D. Upon notice by City, the Owner shall immediately cause to be disconnected any connection to the sewer system which has been made without the required permit from the City or which is in contravention of the ordinances, regulations or specifications of the City of La Vista pertaining to sewer connections.

VI

The Owner shall facilitate collection of sewer service and sewer use fees as may be prescribed by City ordinance. Except as may be otherwise provided by City, such fees shall be based upon water consumption with chargeable water flow computed in the manner employed by Metropolitan Utilities District, which shall collect sewer service or use fees in conjunction with its collection of charges for water use.

VII

In the event of the Owner's breach of any of the terms and conditions hereof or any warranty or covenant herein made by the Owner, then:

- A. In the case of a breach of any term or condition, warranty or covenant, pertaining to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, Owner shall, within five (5) days from receipt of City's notice of such breach, commence to take corrective measures or such measures as may be reasonably requested by the City, and the Owner shall pursue with due diligence such corrective measures to completion as soon thereafter as possible to the reasonable satisfaction of City.
- B. In the case of any other type of breach by the Owner, the Owner shall cure said breach to the reasonable satisfaction of City within thirty (30) days from receipt of City's notice of such breach; provided however, that if the nature of Owner's breach is such that more than thirty (30) days are reasonably required for its cure, then the Owner shall not be deemed to be in breach if the Owner commenced such cure within thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- C. In the event the Owner shall fail to cure any breach within the applicable time and manner afore-prescribed, City may:

1. Upon giving the Owner sixty (60) days notice of City's intent to do so, City may require the Owner to disconnect the sewer system of the Owner from the sewer system of the City, or the City may itself cause such disconnection to be made, if at the expiration of said sixty (60) day period the breach is not cured to the reasonable satisfaction of City. Any such disconnection shall be made at the expense of the Owner.
2. In the event the breach pertains to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, City shall have the absolute right, at its option, to itself perform the work necessary for the requested corrective measures, or to complete the corrective measures commenced by the Owner, as the case may be, in either of which events the owner agrees:
 - (a) Owner shall immediately reimburse City for any and all expense incurred by City in connection therewith.
 - (b) Owner shall indemnify and hold harmless City, its officers, employees and agents, from any expenses, costs, claim, action, cause of action, or demand arising out of City's taking or completing said corrective measures.
3. In addition to whatever other remedies are granted to City herein, City may avail itself of all other rights and remedies that City may have pursuant to any statute, law, or rule of law or equity, including, but not limited to the right to specifically enforce full compliance by the Owner of the terms and conditions of this Agreement, including all warranties and covenants and agreements herein made by the Owner, by both mandatory and prohibitory injunction.

VIII

The term of this Agreement shall be twenty (20) years from and after date hereof; provided, however, that unless one of the parties hereto shall advise the other party in writing of its desire not to do so, this Agreement shall be automatically renewed on the same terms and conditions as herein set forth for additional successive terms of twenty (20) years each. Said written advice shall be given at least six (6) months prior to the end of the original term or additional term, as the case may be, which said party giving such notice desires to be the final term of this Agreement. At the end of the final term of this agreement, whether same be at the end of the original term or at the end of a renewal term, Owner shall, at its own expense disconnect, reconstruct, remove or modify such sewer mains and sewer main connections as City shall deem necessary to prohibit the flow of Owner's sewage into the sewer system of City and to assure the City's continued use of the perpetual easements and licenses granted to it in this Agreement.

IX

The failure of either party to exercise its rights upon any default by the other shall not constitute a waiver of such rights as to any subsequent default.

X

A listing of the Schedule of Exhibits hereto is as follows:

Exhibit "A": Final Plat of Southport West Replat Nine
Exhibit "B": Illustration of Sewer system of the Owner

XI

If any provisions of this Agreement are held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions of this Agreement which can be given effect without the invalid or unconstitutional provision and to this end, each paragraph, sentence and clause of this Agreement shall be deemed severable; provided, however, that, if in the sole opinion of City, the removal or inoperative effect of any such provision so declared invalid or unconstitutional shall materially affect City's rights hereunder, then City may terminate this Agreement, effective as of the date of City's written notice; whereupon the Owner shall:

- A. Pay to City all sums due under the terms of this Agreement to City at the time of termination, including all connection fees and sewer use fees accrued as of said date.
- B. At Owner's own expense, disconnect, reconstruct, remove or modify such sewer mains and sewer main connections, as City shall deem necessary to prohibit the flow of the Owner's sewage into the sewer system of the City.

XII

Both parties acknowledge and agree that this written Agreement, including all exhibits hereto, constitutes the entire agreement of the parties and that there are no warranties, representations, terms or conditions other than those set forth herein.

XII

The provisions of this Agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures at La Vista, Nebraska, the day and year first above written.

ATTEST:

CITY OF LA VISTA, a municipal corporation
in the State of Nebraska

PAMELA BUETHE, CITY CLERK

DOUGLAS KINDIG, MAYOR

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA

COUNTY OF SARPY

)
) ss.
)

On this _____ day of _____, 2022 before me, a

Notary Public, duly commissioned and qualified in and for said County,

appeared Douglas Kindig, personally known by me to be the Mayor of the City of La Vista and Pamela Buethe, to me personally known to be the City Clerk of the City of La Vista, the identical persons whose names are affixed to the foregoing Agreement, and they acknowledged the execution thereof to be their voluntary act and deed.

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

Notary Public

Southport West Partners, LLC, a Nebraska limited liability company

By: _____

Its: Owner

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2022 before me, a

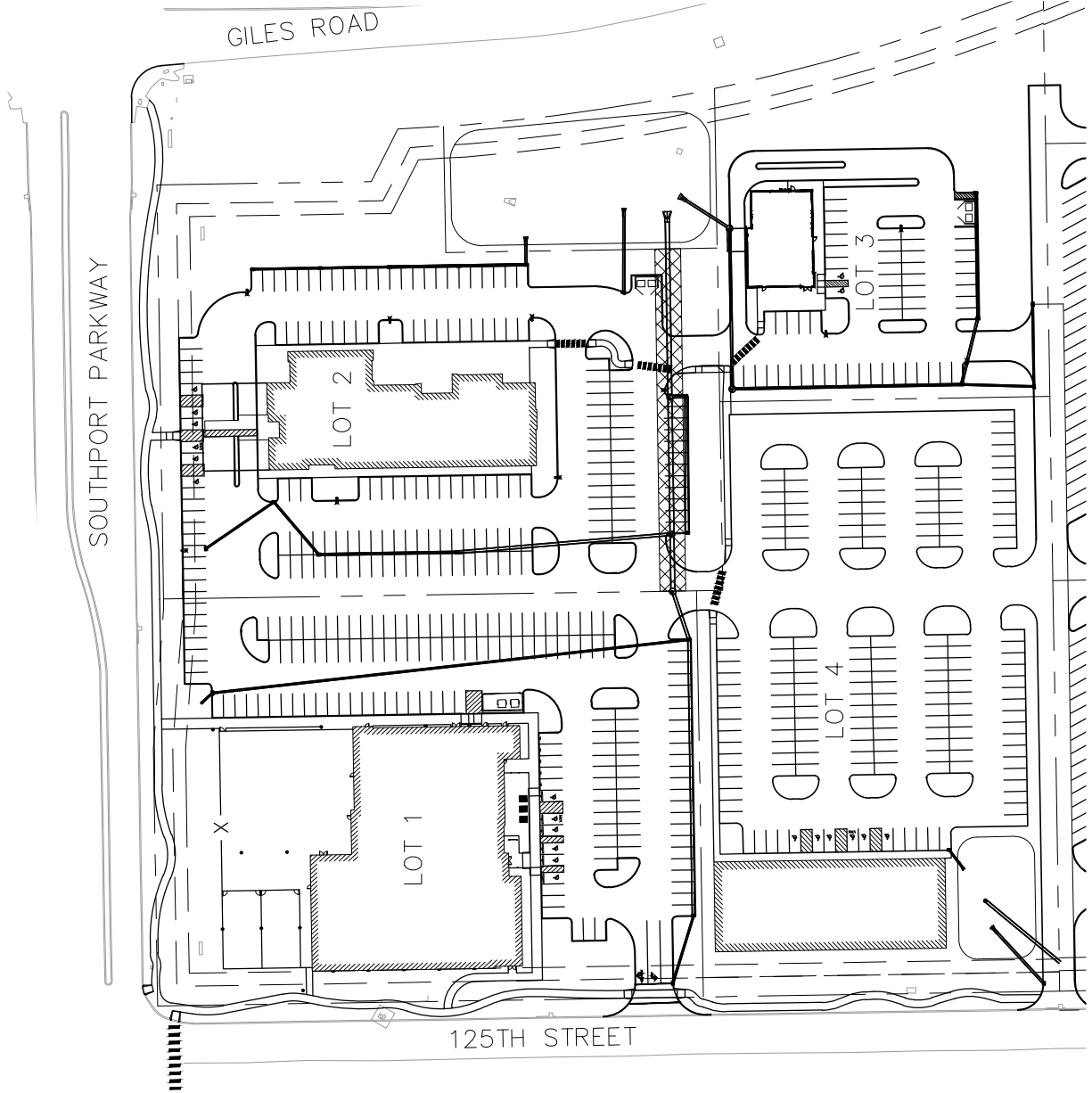
Notary Public, duly commissioned and qualified in and for said County, appeared

_____, Owner of Southport West Partners, LLC a Nebraska limited liability company, personally known to me to be identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof to be his voluntary act and deed, and the voluntary act and deed of said Company.

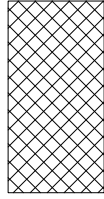
WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

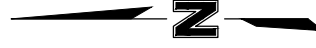
EXHIBIT “H”



LEGEND



STORM SEWER
EASEMENT



NOT TO SCALE

PROJECT NO: 022-00684

DRAWN BY: ELW

DATE: 06/28/2022

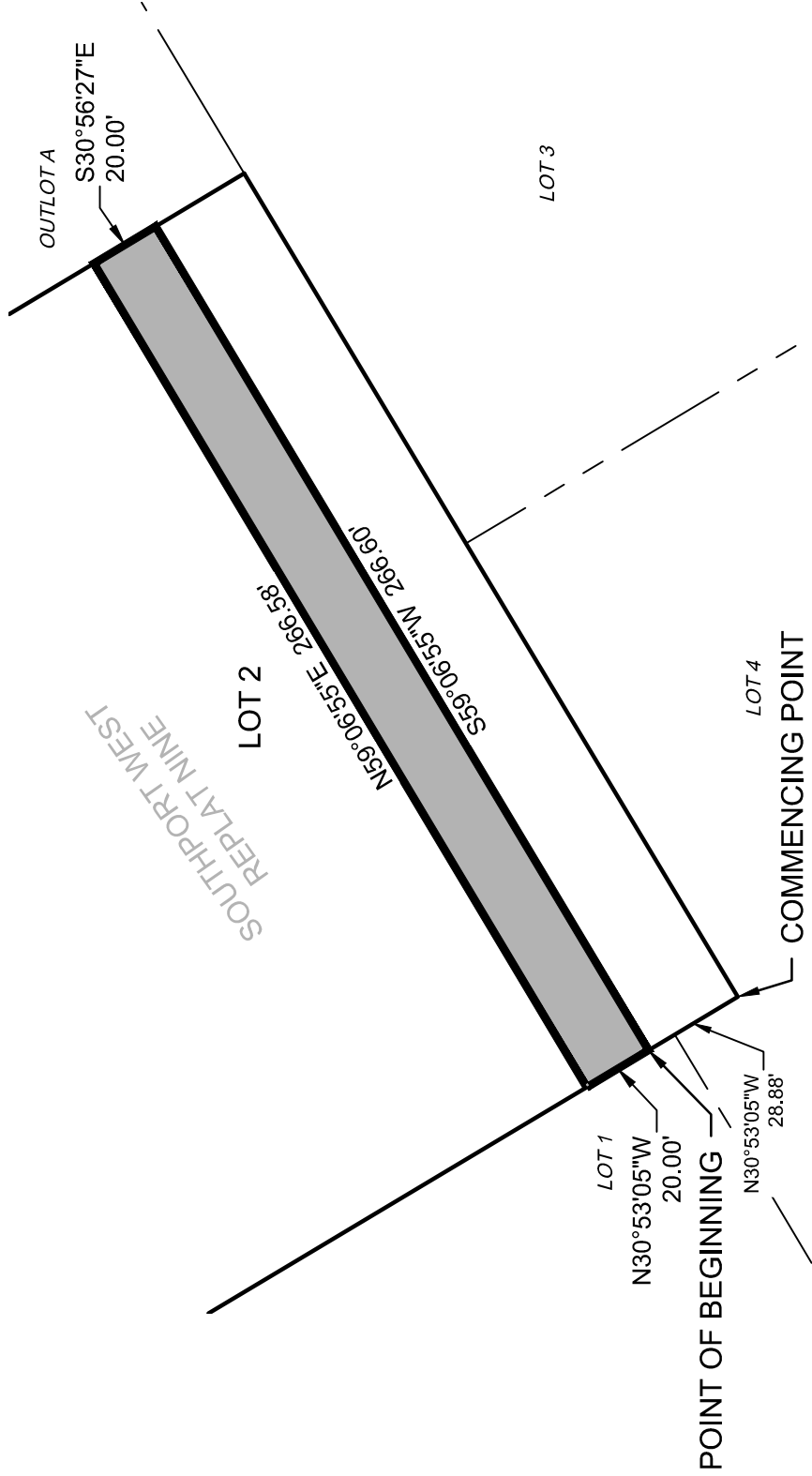
STORM SEWER EASEMENT

olsson

2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1116

EXHIBIT

H-1



LEGAL DESCRIPTION

A 20.00 FOOT WIDE STORM SEWER EASEMENT LOCATED IN LOT 2, SOUTHPORT WEST REPLAT NINE, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2, SOUTHPORT WEST REPLAT NINE, THENCE ON THE WEST LINE OF SAID LOT 2 ON AN ASSUMED BEARING OF N30°53'05"W, 28.88 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ON SAID WEST LINE OF LOT 2 N30°53'05"W, 20.00 FEET; THENCE N59°06'55"E, 266.58 FEET TO A POINT ON THE EAST LINE OF SAID LOT 2; THENCE ON SAID EAST LINE OF LOT 2 S30°56'27"E, 20.00 FEET; THENCE S59°06'55"W, 266.60 FEET TO THE POINT OF BEGINNING.

SAID 20.00 FOOT WIDE STORM SEWER EASEMENT CONTAINS A CALCULATED AREA OF 5,331.82 SQUARE FEET OR 0.122 ACRES, MORE OR LESS.

PROJECT NO: 022-00684		STORM SEWER EASEMENT	olsson 2111 South 67th Street, Suite 200 Omaha, NE 68106 TEL 402.341.1116	EXHIBIT H-2
DRAWN BY: DSH				
DATE: 06/29/2022				

EXHIBIT “I”

PROJECT NO:	022-00684
DRAWN BY:	KA
DATE:	06/28/2022

125TH STREET CROSSWALK IMPROVEMENTS



2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1116

EXHIBIT

I-1

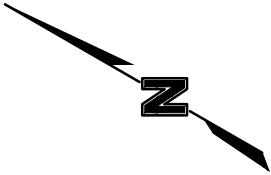
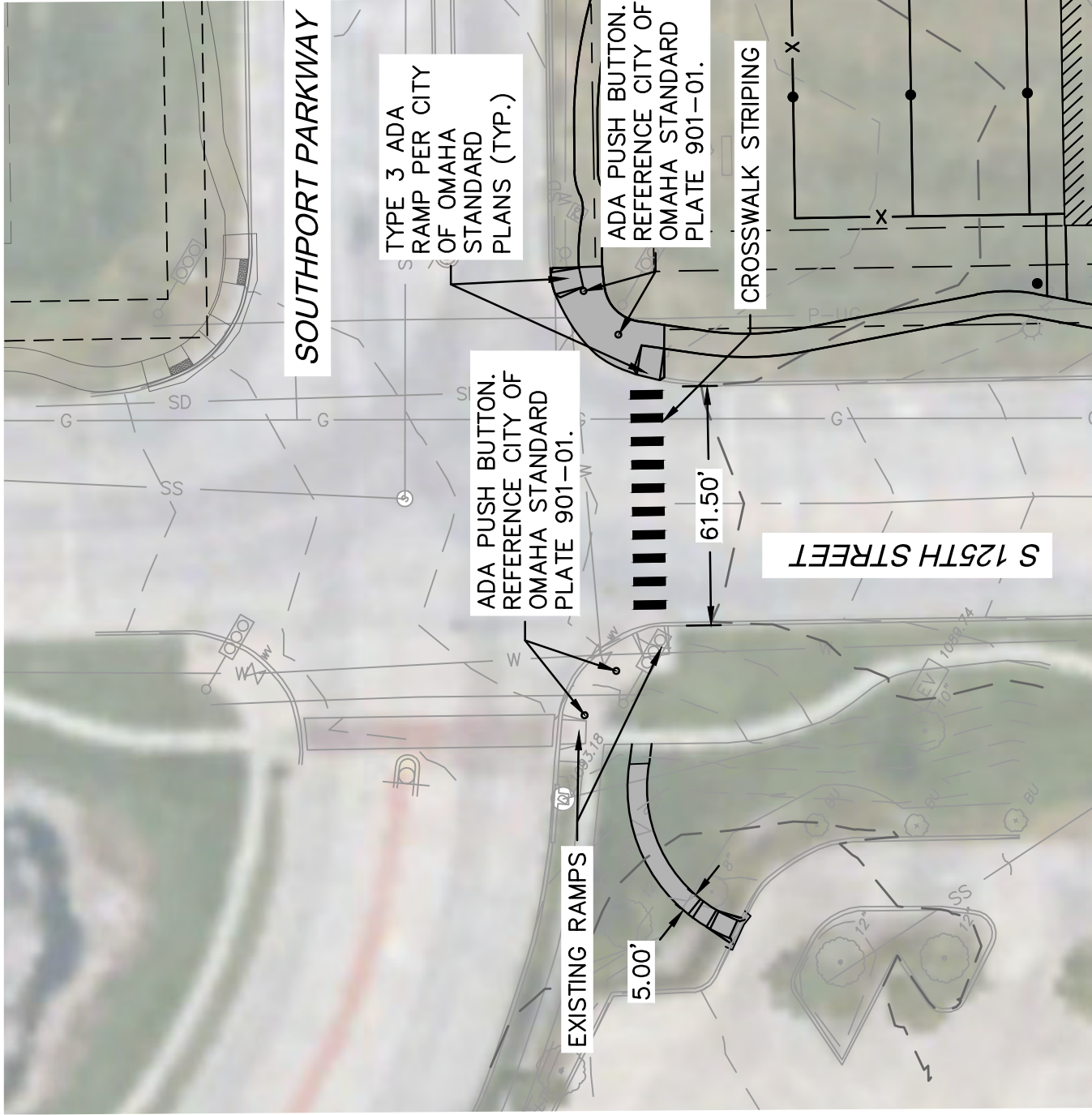


EXHIBIT I-2

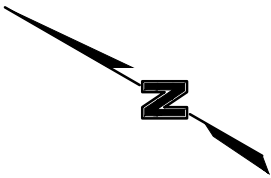
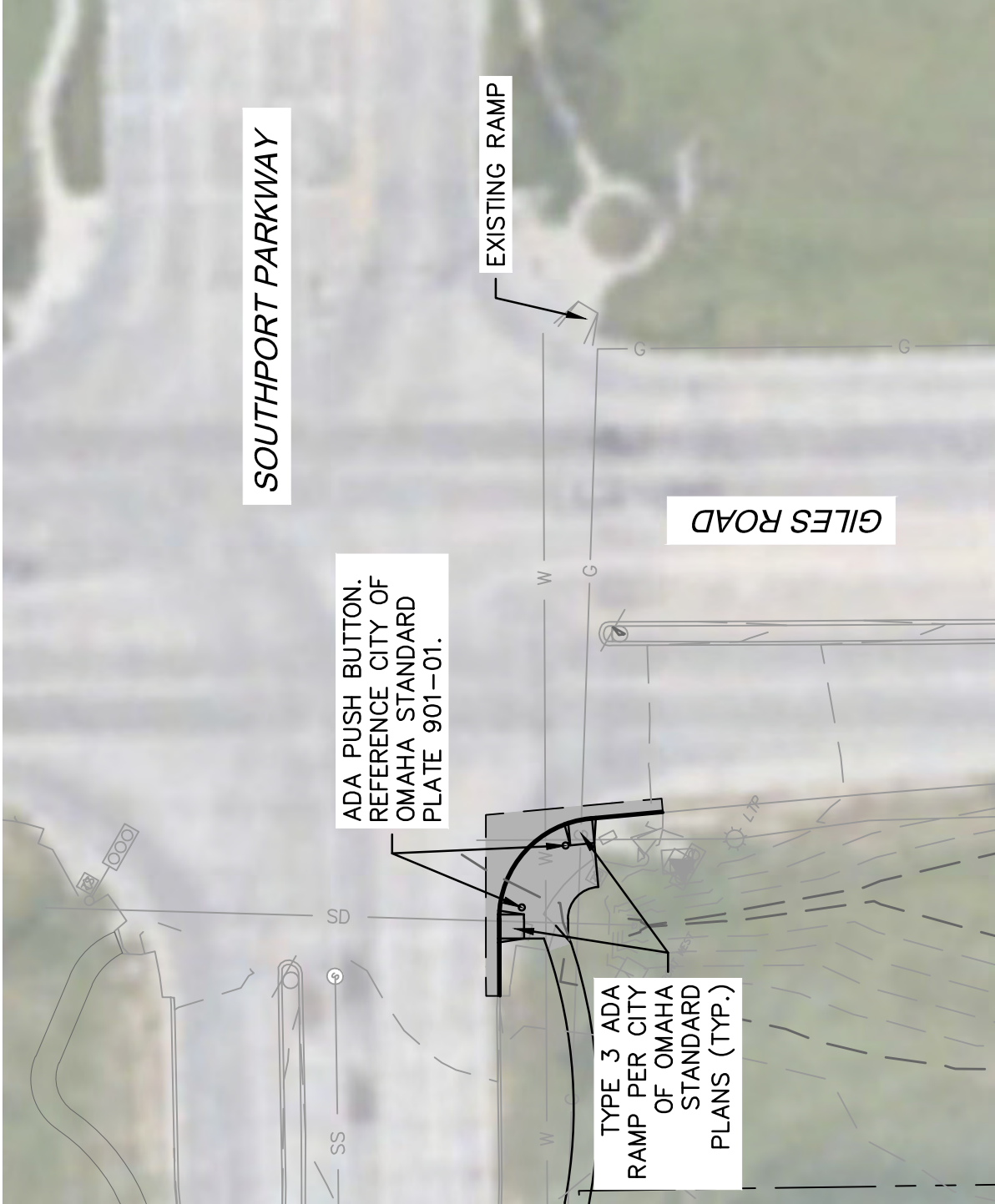


125th Street Crosswalk Improvements Preliminary Opinion of Probable Cost

La Vista, NE
6/29/2022
By: KA

Site Modifications						
Item No.	Description	Qty	Units	Unit Price	Total	Notes
1	Construct Curb Ramp	355	SF	\$8.00	\$2,840.00	
2	Construct 5" Sidewalk	299	SF	\$8.00	\$2,392.00	
3	Full Depth Saw Cut Existing Pavement	15	LF	\$2.50	\$37.50	
4	Furnish & Install Pedestrian Push button	4	EA	\$400.00	\$1,600.00	
5	Furnish & Install Pedestrian Pole, Type PP-	4	LF	\$1,500.00	\$6,000.00	
6	Furnish & Install 2" Conduit - Bored	40	LF	\$30.00	\$1,200.00	
	Furnish & Install 2/C #16 AWG Pedestrian					
7	Push Button Lead-In Cable	150	LF	\$2.50	\$375.00	
	Furnish & Install 1/C #6 Bare Copper					
8	Grounding Conductor	150	LF	\$2.50	\$375.00	
9	24" White Permanent Pavement Marking	88	LF	\$40.00	\$3,520.00	
Engineering, Staking, Testing & Inspection (110%)					Construction Costs	\$18,339.50
						\$1,833.95
110% Construction Costs Plus Engineering Fees Total					\$20,173.45	

EXHIBIT “J”



PROJECT NO:	022-00684
DRAWN BY:	KA
DATE:	06/28/2022

GILES ROAD CROSSWALK
IMPROVEMENTS

2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1116

EXHIBIT J-2



Giles Road Crosswalk Improvements
Preliminary Opinion of Probable Cost

La Vista, NE
6/29/2022
By: KA

Site Modifications						
Item No.	Description	Qty	Units	Unit Price	Total	Notes
1	Pavement Removal	116	SY	\$15.00	\$1,740.00	
2	Construct 7" Concrete Pavement	45	SY	\$65.00	\$2,925.00	
3	Remove and Replace Curb Ramp	577	SF	\$8.00	\$4,616.00	
4	Full Depth Saw Cut Existing Pavement	95	LF	\$2.50	\$237.50	
5	Furnish & Install Pedestrian Push button	2	EA	\$400.00	\$800.00	
6	Furnish & Install Pedestrian Pole, Type PP-	2	LF	\$1,500.00	\$3,000.00	
	Furnish & Install 2/C #16 AWG Pedestrian					
7	Push Button Lead-In Cable	50	LF	\$2.50	\$125.00	
	Furnish & Install 1/C #6 Bare Copper					
8	Grounding Conductor	50	LF	\$2.50	\$125.00	
Engineering, Staking, Testing & Inspection (110%)					Construction Costs	\$13,568.50
110% Construction Costs Plus Engineering Fees Total						\$1,356.85
					110% Construction Costs Plus Engineering Fees Total	\$14,925.35

EXHIBIT “K”

Return to:
Jon E. Blumenthal
Baird Holm LLP
1700 Farnam Street, Suite 1500
Omaha, Nebraska 68102

DECLARATION OF EASEMENTS AND MAINTENANCE AGREEMENTS

This Declaration of Easements and Maintenance Agreements (the "Declaration"), is made and entered into effective as of the _____ day of _____, 2022, by **SOUTHPORT WEST PARTNERS, LLC**, a Nebraska limited liability company ("Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the current fee simple owner of the real property in Sarpy County, Nebraska legally described as follows (the "Property"):

Southport West Replat Nine, numbered Lots 1-4 and Outlot A, a tract of land being a replat of Lots 23 through 26, Southport West and Lot 1, Southport West Replat Four, both platted and recorded subdivisions in the SE1/4 of Section 18, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska.

WHEREAS, the Property is generally depicted on the Site Plan attached to this Declaration as Exhibit "A", as may be amended, modified, or revised from time to time by Declarant (the "Site Plan");

WHEREAS, Declarant desires to develop the Property as a unified commercial development to be known as Southport Commons (the "Development") and therefore shall record this Declaration against the Property; and

WHEREAS, vehicular ingress and egress to and from South 125th Street and the Property is necessary and appropriate for the efficient operation of the Development.

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I Definitions

1.1 Association. The term “Association” shall mean Southport Entry Association, a Nebraska non-profit corporation, its successors and assigns, and unless the context otherwise requires, shall mean and include its Board of Directors, officers, and other authorized agents.

1.2 Board. The term “Board” shall mean the Board of Directors of the Association, to be governed by the bylaws of the Association at the time of formation.

1.3 Building or Buildings. The term “Building” or “Buildings” shall mean the building or buildings which have been, will be, or may be constructed on the Lots.

1.4 Bylaws. The term “Bylaws” shall mean the bylaws of the Association.

1.5 Common Areas. The term “Common Areas” shall mean the portion of the Property intended for the non-exclusive use by the Owners and their Permittees, in common with other users. Common Areas shall include, but are not limited to, surface parking lots, side-walks, benches, landscaping, enhanced lighting for Common Areas, common utility lines and systems, any detention and/or retention ponds, including, but not limited to the detention and/or retention pond located within Outlot A of the Property, areas and drainage facilities, street signage, signage promoting the Development, security lights and facilities, if any, public art that may exist from time to time, and any other public areas designated as common areas by the Declarant or the Association, following the Declarant Control Period; provided, however, Common Areas shall not include (i) any facilities in the interior of any Building or other improvement used exclusively by the Owner or tenant(s) of a Lot, or (ii) any property or facilities owned by the City of La Vista, Nebraska, including the public right of way and public roads located on or adjacent to the Property. Common Areas shall include the foregoing whether now owned or hereafter acquired by Declarant or the Association within the Property.

1.6 Declarant. The term “Declarant” shall mean Southport West Partners, LLC, a Nebraska limited liability company, and its successors and assigns, as set forth in the introductory clause of this Declaration, until such time as Declarant, or its successors or assigns, is no longer the record owner of any Lot in the Development.

1.7 Declarant Control Period. The term “Declarant Control Period” shall mean the period of time commencing with the recordation of this Declaration and continuing until the earlier of (i) the date Declarant no longer owns a Lot in the Property, or (ii) the date Declarant elects, in its discretion in an instrument recorded against the Property, to relinquish and/or surrender all of its rights and obligations as Declarant under this Declaration to the Association.

1.8 Driveways. The term “Driveways” shall mean the drive lanes located on or to be located on the Property, and related, tangential improvements thereto, including, but not limited to, the paving, curbing, striping, signs, lighting, entrances and exits, as reflected on the Site Plan, but excluding the Permanent Access Drive.

1.9 Lot or Lots. The term “Lot” or “Lots” shall mean a platted lot that is part of the Development. In the event that a Lot is replatted, each replatted lot shall be deemed a Lot.

1.10 Owner. The term “Owner” shall mean the legal owner of fee title to a Lot, as reflected by the records of the Douglas County, Nebraska Register of Deeds. If a platted lot that is part of the Commercial Development is owned by one or more persons, the person or persons holding at least fifty one percent (51%) of the ownership interest in one of the platted lots that is part of the Commercial Development shall designate one of the owners to represent

all owners of the property in question and such designated person shall be deemed the owner of such property.

1.11 Permanent Access Drive. The term "Permanent Access Drive" shall mean the pedestrian and vehicular access drive, as reflected on the Site Plan.

1.12 Permittee. The term "Permittee" shall mean all Owners, tenants and licensees of Lots within the Development, and all officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors and invitees of such Owners, tenants, or licensees.

1.13 Person. The term "Person" shall mean any individual, partnership, firm, association, corporation, limited liability company, trust or any other form of business or government entity.

ARTICLE II Easements

2.1 Drainage Easement. Each of the Lots and the Owners thereof shall have non-exclusive easements in, to, over, and through the drainage patterns and systems as are established from time to time within the Common Areas, for reasonable drainage purposes; provided, however, all surface water drainage from any Lot shall be consistent with any approved drainage plan for the Development and shall be in accordance with all applicable laws, codes, and regulations of governmental authorities. Each Owner shall establish upon such Owner's Lot drainage patterns and systems in accordance with Declarant's drainage plans for the Development. Prior to relocation of drainage patterns and systems on any Lot, such Owner shall submit to Declarant, or to the Association following the Declarant Control Period, its drainage plans. Declarant or the Association, as applicable, shall issue written approval to such Owner after determining, in its sole discretion, such drainage plans do not unreasonably interfere with the drainage of other Lots, and adhere to the established drainage plans and systems for the Development.

2.2 Ingress and Egress Easement. Declarant hereby creates, grants and conveys to all Owners, for each Owner's use and for the use of its Permittees, in common with all Owners and Permittees, a non-exclusive perpetual easement for pedestrian and vehicular ingress, egress, and parking on, over and across the paved drives and parking lots located within the Common Areas, including, but not limited to, the Driveways and parking areas situated on each Lot, as the same may be from time to time be constructed and maintained for such use. Such easement rights shall be subject to the following reservations as well as any other applicable provisions contained in this Agreement:

- (a) Each Owner reserves the right at any time from time to time to reasonably exclude and restrain any person who is not a Permittee from using the Driveways or parking areas on its Lot. Provided, however, this subsection 2.2(a) shall not authorize any Owner to exclude or restrain any Permittee from using Driveways or parking areas of or on any Lot within the Development;
- (b) Each Owner shall take reasonable efforts to ensure that its Permittees shall not park on or otherwise obstruct the Driveways;
- (c) No fence or other barrier which would prevent or unreasonably obstruct the passage of pedestrian or vehicular traffic between the Lots shall be erected or per-

mitted within or across the Common Areas or Driveways, exclusive of curbing, speed bumps and other forms of traffic control.

2.3 Temporary Construction Easement. Declarant hereby creates, grants and conveys to all Owners, for each Owner's use and for the use of its Permittees, in common with others entitled to use the same, a non-exclusive easement and right of access, ingress, and egress appurtenant to the Development, to permit each Owner to construct, maintain, repair and renovate its respective Lot, including, but not limited to the Declarant's or the Association's, following the Declarant Control Period, construction of Driveways, or Permanent Access Drive; provided, however, that as to any construction work affecting or involving the use of another Owner's Lot (the "Other Area"), such construction work will only result in incidental or temporary encroachment of the Other Areas, and all such work shall be performed and kept within reasonable requirements of construction work expeditiously pursued. Nothing herein contained shall be construed to allow an Owner the right to construct, maintain, repair, renovate, or otherwise modify another Owner's Lot.

2.4 Utility Easement. Declarant hereby creates, grants and conveys to all Owners, for each Owner's use and for the use of its Permittees, in common with others entitled to use the same, a non-exclusive easement in the Common Areas for utility lines, which easement shall include the right to install, use, test, connect to, operate, maintain, repair, replace, relocate, and remove water lines and systems, telephone lines and systems, gas lines and systems, sanitary sewer lines and systems, storm sewers, drainage lines and systems, electrical lines and systems, and other utility lines or systems developed to serve one or more of the Lots; provided, however, that all pipes, wires, lines, conduits, mains, sewers, systems, and related equipment will be installed underground or otherwise enclosed and will be installed, operated, and maintained in a manner which will not unreasonably interfere with the use of any other Lot. The location of any such utility facilities shall be subject to the reasonable approval by the Owner of the burdened Lot, shall be located within or immediately adjacent to public utility easements or Lot lines, and when approved by such Owner, shall be evidenced by a recorded instrument legally describing and depicting the location of such easements. The Owner of each Lot shall cooperate in the granting of additional or appropriate and proper easements for the installation, repair, relocation, and replacement of storm drains, sewers, utilities, and other proper services necessary for the orderly development and operation of the Development. If an Owner, in the course of installing, using, testing, connecting to, operating, maintaining, repairing, replacing, relocating or removing utility facilities on a Lot other than the Lot owned by the Owner, damages pavement, landscaping, or other portion of said Lot, such Owner shall promptly repair, at its sole cost and expense, all such damage and restore such Lot substantially to its prior condition and shall defend, indemnify and hold harmless and all other Owners or tenants against all loss, liability, and costs (including reasonable attorneys' fees) which may result from the negligent act or omission of such Owner, its agents, employees or contractors. No Owner shall have the right to tie into utility facilities installed specifically to serve another Lot without the prior written consent of the Owner of the other Lot.

2.5 Maintenance Easement. Each Owner hereby grants to the Declarant, or the Association following the Declarant Control Period, a non-exclusive perpetual easement to access those portions of the Common Areas, Driveways, or Permanent Access Drive situated as may reside on their respective Lot as necessary for the Declarant, or the Association following the Declarant Control Period, to provide maintenance of the same as provided under Article III of this Declaration.

ARTICLE III Construction, Maintenance and Repair

3.1 Construction. Each Owner, at its sole cost and expense, shall be responsible for the design and construction of the Driveways located on its respective Lot in such locations as depicted on the Site Plan, or as otherwise approved in advance by Declarant, or the Association following the Declarant Control Period. The Declarant shall be responsible for the design and construction of the Permanent Access Drive, as provided under that certain Corrective Reciprocal Permanent Easement, Covenants and Restrictions Agreement recorded September 11, 2008 as Instrument No.: 2008-25612 of the Records of Sarpy County, Nebraska, as amended from time to time (the "2008 Declaration"). Except for the Declarant, the Owners of the Lots shall not be responsible for any cost and expense associated with the design and construction of the Permanent Access Drive. Declarant's obligations for the cost and expense associated with the design and construction of the Permanent Access Drive shall be as set forth in the 2008 Declaration.

3.2 Common Areas & Drives. The Declarant, or the Association following the Declarant Control Period, shall perform or contract for the performance of maintenance, repair, relocation and replacement of the Common Areas, including, but not limited to, the detention and/or retention pond located on Outlot A of the Property, Driveways, and the Permanent Access Drive, once constructed, as necessary or appropriate and as provided in Section 3.3 below.

3.3 Maintenance. The maintenance responsibilities for the Common Areas, Driveways, and the Permanent Access Drive shall include, without limitation, the following, as applicable:

- (a) Maintaining the paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or comparable substituted material as shall in all respects be equal in quality, use, and durability;
- (b) Removal of all papers, ice and snow, mud and sand, debris, filth and refuse, and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a reasonably clean and orderly condition;
- (c) Placing, keeping in repair and replacing any necessary and appropriate parking area directional signs, markers and lines, and parking lot striping;
- (d) Mowing, trimming, weeding, watering, planting and otherwise maintaining in a clean, safe, and attractive condition the landscaping located within the Common Areas;
- (e) Maintaining and otherwise keeping all drainage lines, facilities, and systems, including, but not limited to the detention and/or retention pond located on Outlot A of the Property, in good working order and condition. For the avoidance of doubt, maintenance and repair of the detention and/or retention pond located on Outlot A of the Property may include, but shall not be limited to, any of the following, as necessary: (i) stabilizing the detention and/or retention pond walls/slopes, (ii) keeping the pond and inflow pipes clear of trash and debris, (iii) mowing and trimming vegetation in and around the pond, and (iv) conducting an annual inspection of the post-construction storm-water management facilities; and

(e) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required and at all times in conformance with standards and applicable ordinances and governmental requirements applicable to such areas.

3.4 Assessment Matters. From and after the completion of the Common Areas, Driveways, and the Permanent Access Drive, as applicable, the Declarant, or the Association following the Declarant Control Period, shall fix, levy and charge the Owners of the Lots at such time with an annual assessment (herein the "Assessment") which shall represent such property Owner's representative share of the repair, maintenance, relocation, and replacement obligations under this Article III, including expenses for the fixing, levying, collecting and enforcement of all Assessments. The Declarant or the Association, as applicable, shall be responsible for providing the Owners a report that details the calculation of the Assessment within, to be issued in conjunction with the Assessment, and will make available to the Owners such information as will permit such Owner to reasonably determine the accuracy of the costs and expenses reported in the Assessment.

3.5 Good Faith. The Declarant, or the Association following the Declarant Control Period, shall, at all times, act in good faith in the determination of reasonable and necessary Assessment expenses. The Declarant or the Association, as applicable, shall, at all times, act in good faith in performing the maintenance obligations set forth in Section 3.3, above, and agrees to engage in such maintenance responsibilities in a timely and responsible manner.

3.6 Right to Audit. The Declarant, or the Association following the Declarant Control Period, shall maintain its books and records pertaining to Assessment expenses in accordance with generally accepted accounting principles, consistently applied. One (1) time per calendar year, each Owner shall have the right, during normal business hours and upon reasonable advance notice to the Declarant or the Association, as applicable, to audit such books and records pertaining to Assessment expenses. In the event an Owner contests the calculation of the Assessment or the necessity of any expenses incurred in connection with the Assessment expenses, such Owner shall pay its Assessment Allocation (as set forth in Section 3.8, below) pending a resolution of such determination, and the parties agree to submit to binding arbitration as soon as reasonably practicable to settle any irreconcilable dispute arising therefrom. In the event an Owner elects to submit the determination of Assessment expenses to binding arbitration, then each party shall select at its sole cost and expense, within ten (10) days thereafter, an arbitrator with at least five (5) years of experience in the valuation of commercial properties and expenses related thereto located in Omaha, Nebraska. Each such arbitrator shall submit its determination of the Assessment expenses in accordance herewith within ten (10) days after selection, and if such determinations are within ten percent (10%) of each other, then the determinations shall be averaged together to arrive at the correct Assessment expenses. In the event the determinations have a disparity greater than ten percent (10%), then the arbitrators shall select a third arbitrator, who shall submit his/her determination in accordance with the foregoing within ten (10) days after selection. The two determinations which are the closest to each other shall then be averaged together to arrive at the correct Assessment expenses. Such arbitration shall otherwise be conducted according to the Model Rules for Arbitration as promulgated by the American Arbitration Association. In the event it is ultimately agreed by the parties or determined via arbitration that the Declarant or the Association, as applicable, has overcharged an Owner(s), the Declarant or the Association, as applicable, shall reimburse such Owner(s) for the excess amounts paid by Owner(s), and in the event that any such overcharge

exceeds the amount actually owed by Owner(s) by more than five percent (5%), the Declarant or the Association shall reimburse Owner(s) for the cost of its audit.

3.7 Lien of Assessment. All Assessments, together with interest thereon, costs and reasonable attorney fees shall be the personal obligation of the Owner of each respective Lot at the time when the Assessment first becomes due and payable. The Assessments, together with interest thereon, costs and reasonable attorney fees, shall also be a charge and continuing lien against the Lot for which the Assessments are charged.

3.8 Assessment Allocation. All assessments shall be determined and assessed against the Lots according to their pro-rata share determined as follows (the "Assessment Allocation"):

<u>Southport Nine</u>	<u>West</u>	<u>Replat</u>	<u>Acreage</u>	<u>Percentage</u>
Lot 1			3.08	29.08%
Lot 2			3.00	28.33%
Lot 3			1.63	15.39%
Lot 4			2.88	27.20%
Total			10.59	100%

The foregoing acreages and percentages shall be revised in respect of any recorded Lot subdivision without amendment of this Agreement by reallocating the acreage and percentages assigned to the subdivided Lot proportionately according to the acreage(s) of the subdivided Lots. Notwithstanding the foregoing, in the event of loss or damage(s) to the Common Areas, Driveways, or Permanent Access Drive, or damage(s) to personal property occurring on or about the Common Areas, Driveways, or Permanent Access Drive, or death or injury to any person(s) occurring on or about the Common Areas, Driveways, or Permanent Access Drive due to the negligence or willful misconduct of an Owner, its employees, agents or invitees, such Owner shall indemnify and hold the other Owners harmless for such loss, expense or damages.

3.9 Due Date. Any installment of Assessments which is not paid within thirty (30) days following delivery of notice of Assessment shall be delinquent. Delinquent Assessments shall bear interest from the date when due at the rate of nine percent (9%) per annum. The Declarant, or the Association following the Declarant Control Period, may bring an action at law against the Owner personally obligated to pay the same, foreclose the lien against the property, or pursue any other legal or equitable remedy. The Declarant or the Association, as applicable, shall be entitled to recover as a part of the action and shall be indemnified against the interest, cost and reasonable attorney fees incurred by the Declarant or the Association, as applicable, with respect to such action. The mortgagee of any property shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Declarant or the Association, as applicable, shall assign to any mortgagee who cures such a delinquency, all of its rights with respect to such lien and the right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Declarant or the Association, as applicable.

**ARTICLE IV
MISCELLANEOUS**

4.1 Enforcement. In the event of a breach or threatened breach of this Agreement, only an Owner shall be entitled to institute proceedings for full and adequate relief from consequences of such breach or threatened breach. Such Owner may seek relief in equity or at law in the District Court of Sarpy County, Nebraska. Time is of the essence for purposes hereof.

4.2 Perpetual Duration. This Agreement and the covenants, conditions, restrictions and easements shall create mutual benefits and servitudes running with the land and shall bind and inure to the benefit of the parties hereto, and their respective heirs, representatives, lessees, successors and assigns. This Agreement shall be perpetual, provided, however, that this Agreement may be modified, amended or terminated by an instrument signed by the Declarant, or by the Association following the Declarant Control Period, in accordance with the bylaws of the Association, and recorded with the Sarpy County, Nebraska, Register of Deeds.

4.3 Survival. Invalidity of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

4.4 Counterparts. This Agreement may be executed in any number of counterpart originals, each of which, when taken together, shall be deemed to be one and the same instrument. Executed copies of this Agreement may be delivered between the parties via telecopy or electronic mail.

4.5 Amendments. This Declaration and any provision contained herein may be extended, modified, altered, repealed, supplements, or amended in any respect by at least seventy-five percent (75%) of the votes of the Board of Directors of the Association. Any such extension, modification, alteration, repeal, supplement, or amendment shall be memorialized via a written document executed by such authorizing Members, which document shall be recorded in the Office of the Register of Deeds of Sarpy County, Nebraska. Notwithstanding the foregoing, during the Declarant Control Period, Declarant must concur in all alterations, amendments and/or revocations of this Declaration.

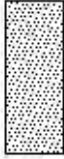
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Signature Page to Follow]**

EXHIBIT "A" SITE PLAN

LEGEND



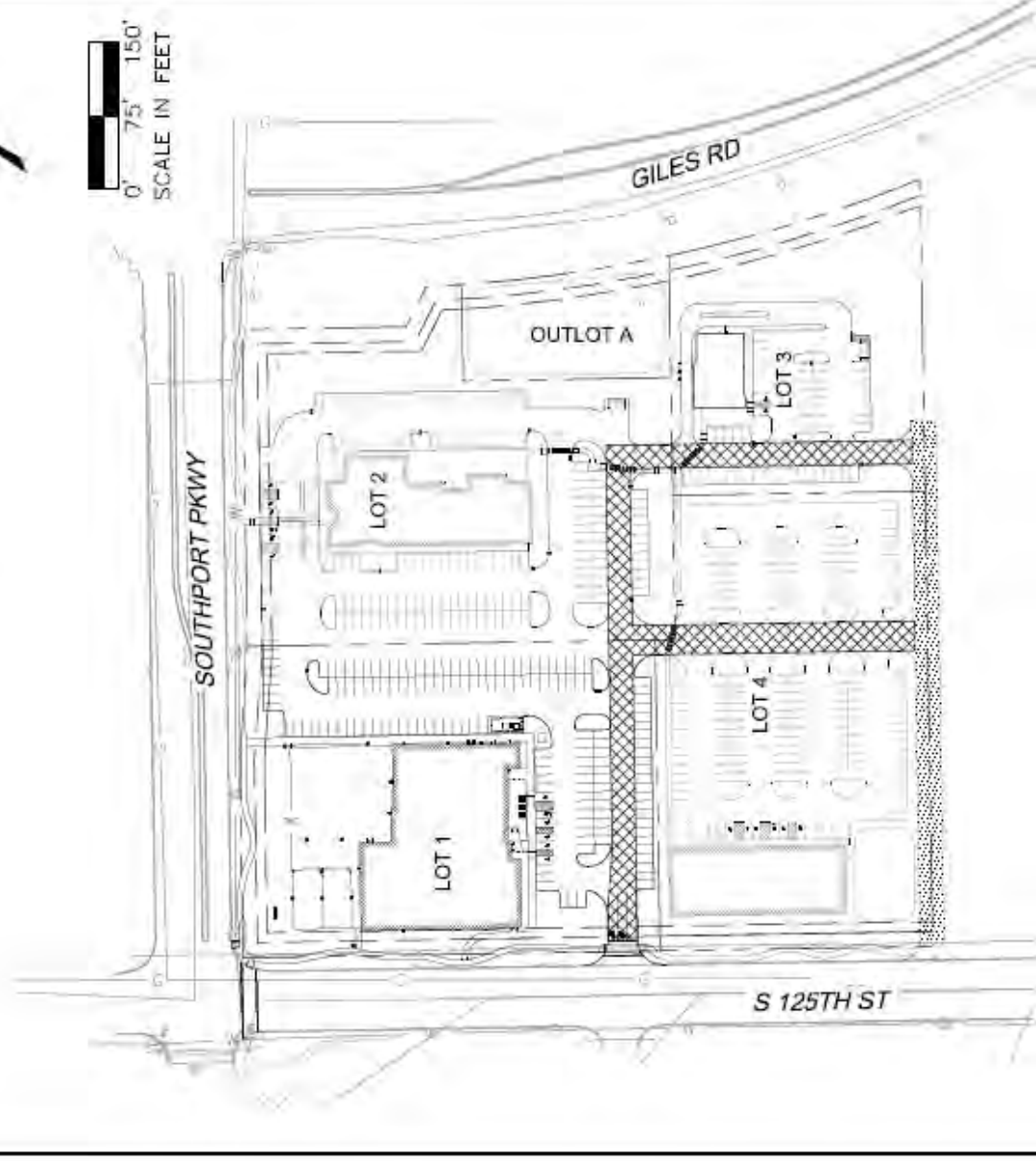
DRIVEWAYS



PERMANENT ACCESS
DRIVE



0' 75' 150'
SCALE IN FEET



PROJECT NO: 022-00684
DRAWN BY: KA
DATE: 06/17/2022

**SOUTHPORT ENTRY
ASSOCIATION**

olsson

2111 South 17th Street
Suite 200
Orem, UT 84058
TEL: 402.261.1116

EXHIBIT

A

EXHIBIT “L”



- | | | | |
|------------------------|-----|------|-----|
| EXISTING MAJOR CONTOUR | --- | 10XX | --- |
| EXISTING MINOR CONTOUR | --- | 10XX | --- |
| PROPOSED MAJOR CONTOUR | --- | 10XX | --- |
| PROPOSED MINOR CONTOUR | --- | 10XX | --- |

BMP LEGEND (REFERENCE DETAIL SHEET)

- PB--#** PORTABLE BATHROOM

- | | | |
|---|---|---|
|  |  | EXISTING STABILIZED CONSTRUCTION ENTRANCE
MAINTAIN/REPAIR AS NECESSARY. REF. OMAHA
REGIONAL STORMWATER MANUAL (FIG 9-3) |
|  |  | INLET PROTECTION. SEE DETAIL SHEET. |
|  |  | SILT FENCE. REF. OMAHA REGIONAL STORMWATER
MANUAL (FIG 9-4, 9-5) |

- **CW-#** CONCRETE WASHOUT. SEE DETAIL SHEET. **SS-#** SNPPP SIGN PER PUMP REQUIREMENTS

- EROSION CONTROL BLANKET (NORTH AMERICAN GREEN SC-150 OR APPROVED EQUAL); REF. OMAHA REGIONAL STORMWATER MANUAL (FIG. 4-51).

- TEMPORARY SEEDED AREA: REFERENCE
TEMPORARY SEEDING TABLE THIS SHEET.

NOTES

- [illegible]

TEMPORARY SEEDING	
DATE	APPLICATION
MAR. 15 - JUL. 1	COVER CROP - DRILL SEED OATS & RYEGRASS. OATS SEEDING RATE - 2.0 BU. OR 60 LBS./AC. RYEGRASS SEEDING RATE-30 LBS./AC.
JUL. 1 - SEPT. 1	COVER CROP - DRILL SEED OATS, SEEDING RATE - 1.5 BU. OR 48 LBS./AC. COVER CROP - DRILL SEED
SEPT. 1 - OCT. 31	WINTER WHEAT - 1 BU. OR 56 LBS./AC. OR WINTER RYE - 1 BU. OR 56 LBS./AC.

TEMPORARY SEEDING

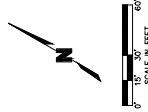
DATE	APPLICATION
MAR. 15 - JUL. 1	COVER CROP - DRILL SEED OATS & RYEGRASS. OATS SEEDING RATE - 2.0 BU. OR 60 LBS./AC. RYEGRASS SEEDING RATE - 30 LBS./AC.
JUL. 1 - SEPT. 1	COVER CROP - DRILL SEED OATS, SEEDING RATE - 1.5 BU. OR 48 LBS./AC.
SEPT. 1 - OCT. 31	COVER CROP - DRILL SEED WINTER WHEAT - 1 BU. OR 56 LBS./AC. OR WINTER RYE - 1 BU. OR 56 LBS./AC.

22

EROSION CONTROL PLAN
PUD PLANS

NE

drawn by: _____ KA
checked by: _____ PW
approved by: _____
DATE: 05/05/2014
PROJECT NO.: _____
DRAWING NO.: _____
SHEET _____ OF 11 SHEETS

C30
SHEET

uoss|o

2111 South 67th Street, Suite 200
Omaha, NE 68106
TEL 402.341.1116
www.dellison.com

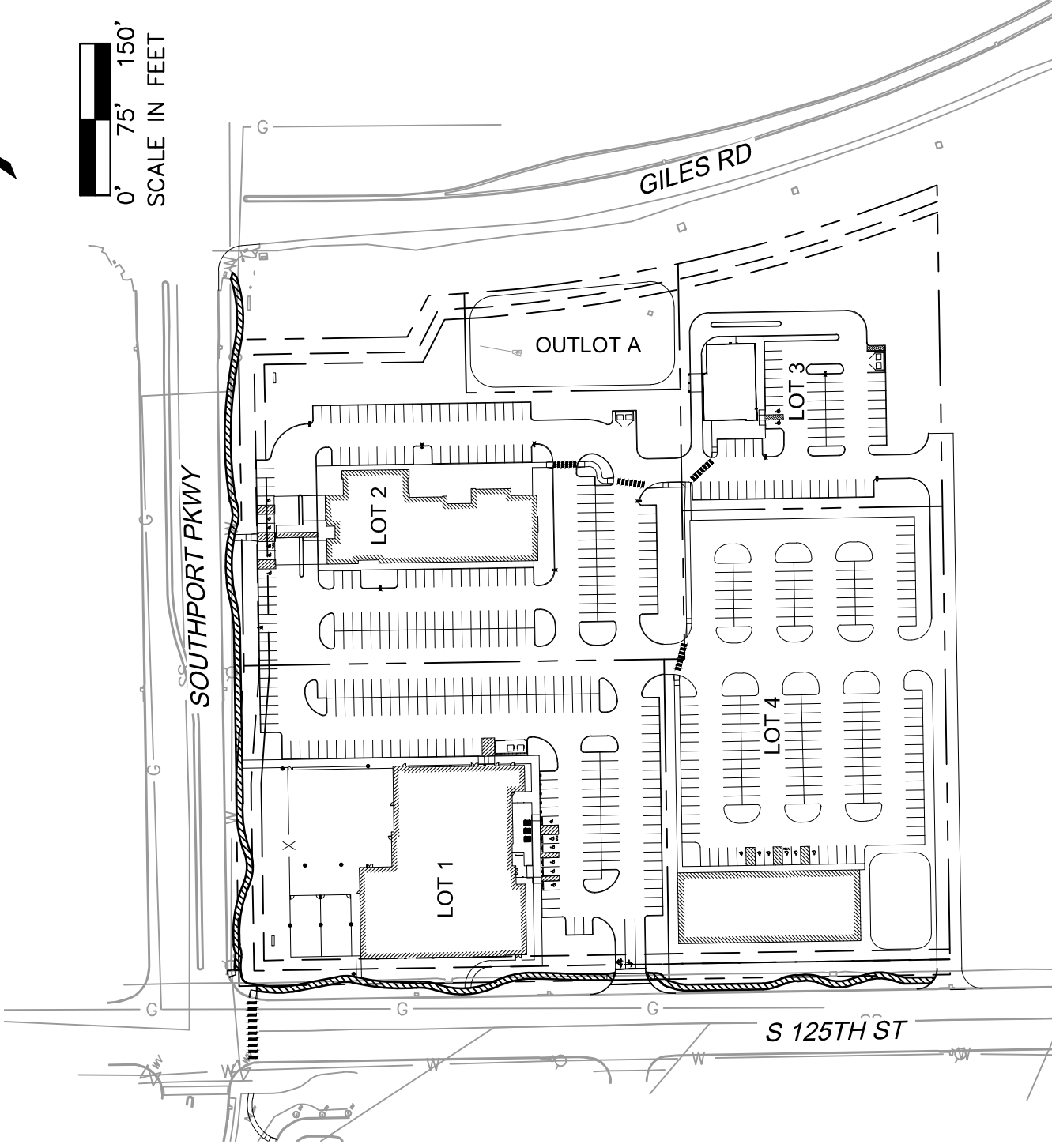
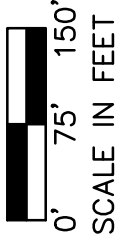
EXHIBIT “M”

LEGEND



PERIMETER SIDEWALKS

N



PROJECT NO: 022-00684

DRAWN BY: KA

DATE: 06/23/2022

PERIMETER
SIDEWALKS LOTS 1-4

olsson

2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1116

EXHIBIT

M-1

EXHIBIT M-2

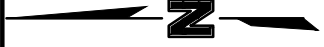


Perimeter Sidewalks Lots 1-4
Preliminary Opinion of Probable Cost
La Vista, NE
6/29/2022
By: KA

Site Modifications					
Item No.	Description	Qty	Units	Unit Price	Total
1	Construct 5" Sidewalk	8423	SF	\$4.00	\$33,692.00
Engineering, Staking, Testing & Inspection (110%)		Construction Costs			\$33,692.00
					\$3,369.20
110% Construction Costs Plus Engineering Fees Total					\$37,061.20

EXHIBIT “N”

DOCS/2794825.8



0' 75' 150'
SCALE IN FEET



PROJECT NO: 022-00684

DRAWN BY: KA

DATE: 06/23/2022

PUBLIC IMPROVEMENTS

olsson

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EXHIBIT

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