

LA VISTA CITY COUNCIL MEETING AGENDA
December 20, 2022
Harold “Andy” Anderson Council Chamber
La Vista City Hall
8116 Park View Blvd

- **Call to Order**
- **Pledge of Allegiance**
- **Announcement of Location of Posted Open Meetings Act**
- **Administration of Oath of Office – Kevin B. Wetuski, Ward IV**
- **Service Award: Jeff Sinnett – 25 Years**
- **Appointments:**
 - Board of Health – Reappoint Douglas Kindig, Kim Thomas, Robert Lausten, Hans Dethlefs and Mary Brennan – 1 year term
 - Planning Commission – Appoint Josh Frey – 3 year term

All matters listed under item A, Consent Agenda, are considered to be routine by the city council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

A. CONSENT AGENDA

1. **Approval of the Agenda as Presented**
 2. **Approval of the Minutes of the December 6, 2022 City Council Meeting**
 3. **Approval of the Minutes of the December 6, 2022 City Council Organizational Meeting**
 4. **Approval of the Minutes of the December 1, 2022 Planning Commission Meeting**
 5. **Request for Payment – JE Dunn Construction Co – Construction Services – Central Park Pavilion and Site Improvements – \$1,451,737.00**
 6. **Request for Payment – City Centre Music Venue, LLC & Astro Theater, LLC – Disbursement of EDP Award Funds – \$416,199.84**
 7. **Request for Payment – RDG Planning & Design – Professional Services – On Call Services – \$1,982.50**
 8. **Request for Payment – RDG Planning & Design – Professional Services – Placemaking Phase 1 – \$14,652.02**
 9. **Resolution – Approve Change Order No. 1 – Central Park Access Road – Park View Project**
 10. **Resolution – Approve Amendment No. 1 – Economic Development Program Award Promissory Note – Astro Theater**
 11. **Approval of Claims**
- **Reports from City Administrator and Department Heads**
- B. Comprehensive Plan Amendments – Future Land Use Map Plan & Future Land Use Map**
1. **Public Hearing**
 2. **Ordinance**
- C. Amend Municipal Retirement Plans**
1. **Resolution – Amend La Vista General Employees Defined Contribution Pension Plan and Trust**
 2. **Ordinance – Amend La Vista Police Officers Retirement Plan and Trust**
- D. Resolution – Amend Municipal Retirement Plan – City Administrator**
- E. Resolution – Approve Professional Services Agreement – Sewer Rate Study FY25-FY29**
- F. Resolution – Approve Memorandum of Understanding – Grading & Construction Permits within Southern Sarpy Watershed**
- G. Resolution – Authorize Purchase – Un-Marked Police Vehicles**
- H. Resolution – Authorize Purchase – CIS Endpoint Security Services**
- **Comments from the Floor**
 - **Comments from Mayor and Council**
 - **Adjournment**

The public is welcome and encouraged to attend all meetings. If special accommodations are required, please contact the City Clerk prior to the meeting at 402-331-4343. A copy of the Open Meeting Act is posted in the Council Chamber and available in the public copies of the Council packet. Citizens may address the Mayor and Council under "Comments from the Floor." Comments should be limited to three minutes. We ask for your cooperation in order to provide for an organized meeting.



CITY OF LA VISTA
CERTIFICATE OF APPRECIATION

A CERTIFICATE OF APPRECIATION PRESENTED TO JEFF SINNETT OF THE COMMUNITY DEVELOPMENT DEPARTMENT, FOR 25 YEARS OF FAITHFUL AND EFFICIENT SERVICE TO THE CITY OF LA VISTA.

WHEREAS, Jeff Sinnett has served the City of La Vista since December 15, 1997; and

WHEREAS, Jeff Sinnett's input and contributions to the City of La Vista have contributed to the success of the City;

NOW, THEREFORE BE IT RESOLVED that this Certificate of Appreciation is hereby presented to Jeff Sinnett on behalf of the City of La Vista for 25 years of service to the City.

DATED THIS 20TH DAY OF DECEMBER 2022.


Douglas Kindig, Mayor

Terrilyn Quick
Councilmember, Ward I

Kim J. Thomas
Councilmember, Ward I

Ronald Sheehan
Councilmember, Ward II

Kelly Sell
Councilmember, Ward II

Deb Hale
Councilmember, Ward III

Alan W. Ronan
Councilmember, Ward III

Kevin B. Wetuski
Councilmember, Ward IV

Jim Frederick
Councilmember, Ward IV

ATTEST:

Pamela A. Buethe, MMC
City Clerk



LA VISTA CITY COUNCIL MEETING AGENDA
December 20, 2022
Harold “Andy” Anderson Council Chamber
La Vista City Hall
8116 Park View Blvd

A-1

- **Call to Order**
- **Pledge of Allegiance**
- **Announcement of Location of Posted Open Meetings Act**
- **Administration of Oath of Office – Kevin B. Wetuski, Ward IV**
- **Service Award: Jeff Sinnett – 25 Years**
- **Appointments:**
 - Board of Health – Reappoint Douglas Kindig, Kim Thomas, Robert Lausten, Hans Dethlefs and Mary Brennan – 1 year term
 - Planning Commission – Appoint Josh Frey – 3 year term

All matters listed under item A, Consent Agenda, are considered to be routine by the city council and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

A. CONSENT AGENDA

1. **Approval of the Agenda as Presented**
 2. **Approval of the Minutes of the December 6, 2022 City Council Meeting**
 3. **Approval of the Minutes of the December 6, 2022 City Council Organizational Meeting**
 4. **Approval of the Minutes of the December 1, 2022 Planning Commission Meeting**
 5. **Request for Payment – JE Dunn Construction Co – Construction Services – Central Park Pavilion and Site Improvements – \$1,451,737.00**
 6. **Request for Payment – City Centre Music Venue, LLC & Astro Theater, LLC – Disbursement of EDP Award Funds – \$416,199.84**
 7. **Request for Payment – RDG Planning & Design – Professional Services – On Call Services – \$1,982.50**
 8. **Request for Payment – RDG Planning & Design – Professional Services – Placemaking Phase 1 – \$14,652.02**
 9. **Resolution – Approve Change Order No. 1 – Central Park Access Road – Park View Project**
 10. **Resolution – Approve Amendment No. 1 – Economic Development Program Award Promissory Note – Astro Theater**
 11. **Approval of Claims**
- **Reports from City Administrator and Department Heads**
- B. Comprehensive Plan Amendments – Future Land Use Map Plan & Future Land Use Map**
1. **Public Hearing**
 2. **Ordinance**
- C. Amend Municipal Retirement Plans**
1. **Resolution – Amend La Vista General Employees Defined Contribution Pension Plan and Trust**
 2. **Ordinance – Amend La Vista Police Officers Retirement Plan and Trust**
- D. Resolution – Amend Municipal Retirement Plan – City Administrator**
- E. Resolution – Approve Professional Services Agreement – Sewer Rate Study FY25-FY29**
- F. Resolution – Approve Memorandum of Understanding – Grading & Construction Permits within Southern Sarpy Watershed**
- G. Resolution – Authorize Purchase – Un-Marked Police Vehicles**
- H. Resolution – Authorize Purchase – CIS Endpoint Security Services**
- **Comments from the Floor**
 - **Comments from Mayor and Council**
 - **Adjournment**

The public is welcome and encouraged to attend all meetings. If special accommodations are required, please contact the City Clerk prior to the meeting at 402-331-4343. A copy of the Open Meeting Act is posted in the Council Chamber and available in the public copies of the Council packet. Citizens may address the Mayor and Council under "Comments from the Floor." Comments should be limited to three minutes. We ask for your cooperation in order to provide for an organized meeting.

MINUTE RECORD

A-2

No. 729 -- REDFIELD DIRECT E2106195KV

LA VISTA CITY COUNCIL MEETING December 6, 2022

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 6:00 p.m. on December 6, 2022. Present were Councilmembers: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Also in attendance were City Attorney McKeon, City Administrator Gunn, Assistant City Administrator Ramirez, City Clerk Buethe, Chief of Police Lausten, Director of Administrative Services Pokorny, Community Development Director Fountain, Recreation Director Stopak, Director of Public Works Soucie, City Engineer Dowse, Library Director Barcal and Human Resources Director Lowery.

A notice of the meeting was given in advance thereof by publication in the Papillion Times on November 23, 2022. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Mayor Kindig called the meeting to order, led the audience in the Pledge of Allegiance, and made the announcements.

A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF THE MINUTES OF THE NOVEMBER 15, 2022 CITY COUNCIL MEETING
3. APPROVAL OF THE MINUTES OF THE NOVEMBER 14, 2022 JOINT WORKSHOP
4. APPROVAL OF THE MINUTES OF THE NOVEMBER 10, 2022 LIBRARY ADVISORY BOARD MEETING
5. OCCUPATION TAX REPORT
6. REQUEST FOR PAYMENT – RDG PLANNING & DESIGN – PROFESSIONAL SERVICES – PLACEMAKING PHASE 1 – \$21,962.00
7. REQUEST FOR PAYMENT – SAMPSON CONSTRUCTION – CONSTRUCTION SERVICES – OFFSTREET PARKING DISTRICT NO. 2, STRUCTURE NO. 2 – \$1,163,377.00
8. REQUEST FOR PAYMENT – BENESCH – PROFESSIONAL SERVICES – TERRY DR, LILLIAN AVE & S. 78TH ST PAVEMENT REHABILITATION – \$11,735.13
9. REQUEST FOR PAYMENT – OLSSON, INC – PROFESSIONAL SERVICES – CITY PARK PAVILION TESTING – \$7,175.50
10. REQUEST FOR PAYMENT – MAPA – PROFESSIONAL SERVICES – APPLEWOOD CREEK TRAIL – \$21,987.00
11. REQUEST FOR PAYMENT – NEBRASKA DEPARTMENT OF TRANSPORTATION – CONSTRUCTION SERVICES – APPLEWOOD CREEK TRAIL – \$167,246.13
12. REQUEST FOR PAYMENT – MACKIE CONSTRUCTION – CONSTRUCTION SERVICES – CENTRAL PARK ACCESS ROAD – PARK VIEW BLVD – \$368,080.23
13. REQUEST FOR PAYMENT – BRIAN SMILES – PROFESSIONAL SERVICES – STORM WATER PUBLIC EDUCATION & OUTREACH – \$1,200.00
14. RESOLUTION NO. 22-1115 – APPROVE CHANGE ORDER – SEWER JET TRUCK

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING A CHANGE ORDER FOR THE PURCHASE OF ONE (1) 2021 FREIGHTLINER 800-HPR-ECO SERIES IV SEWER JET TRUCK FROM SEWER EQUIPMENT OF AMERICA, DIXON, ILLINOIS INCREASING THE NOT TO EXCEED AMOUNT FROM \$245,000.00 TO \$252,500.00.

WHEREAS, the City Council of the City of La Vista determined that the purchase of one (1) sewer jet truck was necessary and approved Resolution 21-121 on October 19, 2021; and

WHEREAS, the original quote accounted for the cost of one sewer jet truck; this change order accounts for one sewer jet truck; and

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

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

WHEREAS, this change order will increase the total amount of purchase from \$245,000.00 to \$252,500.00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize a change order for the purchase of one (1) 2021 Freightliner 800-HPR-ECO Series IV Sewer Jet Truck from Sewer Equipment of America, Dixon, Illinois increasing the not to exceed amount from \$245,000.00 to \$252,500.00.

15. APPROVAL OF CLAIMS

| | |
|-------------------------------------|------------|
| 4IMPRINT, supplies | 370.03 |
| AA WHEEL & TRUCK, maint. | 462.56 |
| ABM INDUSTRIES INC, services | 11,329.47 |
| ACTIVE NETWORK LLC, services | 141.02 |
| AED ZONE, services | 360.00 |
| AKRS EQUIPMENT SOLUTIONS, maint. | 426.73 |
| AMAZON, supplies | 800.37 |
| ANTHEM SPORTS LLC, supplies | 6,866.54 |
| A-RELIEF, services | 53.63 |
| ARNOLD MOTOR SUPPLY, maint. | 523.85 |
| AT&T MOBILITY LLC, phones | 98.24 |
| AXON ENTERPRISE INC, supplies | 918.00 |
| BACON LETTUCE CREATIVE, services | 2,000.00 |
| BARCAL, R., travel | 101.23 |
| BARCO MUNICIPAL PRODUCTS, supplies | 508.40 |
| BERGANKDV LLC, services | 10,520.00 |
| BIBLIOTHECA LLC, media | 35.13 |
| BIG RED LOCKSMITHS, bld&grnds | 81.00 |
| BISHOP BUSINESS EQUIPMENT, services | 1,058.92 |
| BLACK HILLS ENERGY, utilities | 3,575.99 |
| BOBCAT OF OMAHA, maint. | 49.47 |
| BRITE IDEAS DECORATING, bld&grnds | 3,975.43 |
| CCAP AUTO LEASE LTD, services | 638.00 |
| CENTER POINT INC, books | 383.52 |
| CENTURY LINK/LUMEN, phones | 953.75 |
| CINTAS CORP, services | 645.36 |
| CITY CENTRE MUSIC VENUE, grant | 634,848.49 |
| CITY OF OMAHA, services | 373,214.48 |
| CITY OF PAPILLION, services | 255,172.23 |
| COX COMMUNICATIONS, services | 150.41 |
| CREATIVE SITES LLC, services | 48,022.65 |
| CULLIGAN OF OMAHA, services | 82.25 |
| CUMMINS CENTRAL POWER, services | 1,517.14 |
| D & K PRODUCTS, supplies | 7,188.85 |
| DATASHIELD CORP, services | 60.00 |
| HALE, D., travel | 398.13 |
| DELL MARKETING, services | 118.47 |
| DIAMOND BLADE DISTRIBUTORS, maint. | 693.95 |
| DLR GROUP, services | 10,999.95 |
| DOUGLAS COUNTY SHERIFF, services | 162.50 |
| DULTMEIER SALES LLC, maint. | 15.20 |
| EBSCO INFORMATION, services | 65.62 |
| ECHO GROUP INC, supplies | 114.10 |
| EJS SUPPLY, maint. | 6,978.30 |
| ESSENTIAL SCREENS, services | 143.10 |

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

| | |
|--|------------|
| EYMAN PLUMBING INC, services | 1,188.13 |
| FELSBURG HOLT & ULLEVIG INC, services | 26,924.75 |
| FERGUSON ENTERPRISES, bld&grnds | 189.00 |
| FERRELLGAS, bld&grnds | 548.24 |
| FITZGERALD SCHORR BARMETTLER, services | 32,611.35 |
| FLORIAN, ARTHUR CRAIG, services | 250.00 |
| FORVIS LLP, services | 8,379.00 |
| FUN EXPRESS LLC, supplies | 161.96 |
| GALE, books | 33.74 |
| GENERAL FIRE & SAFETY, services | 1,849.50 |
| GENUINE PARTS CO, maint. | 380.19 |
| GLOCK INC, supplies | 550.00 |
| GREAT PLAINS UNIFORMS, apparel | 20.00 |
| GREATAMERICA FINANCIAL, services | 1,585.60 |
| HANEY SHOE STORE, apparel | 148.99 |
| HGM ASSOCIATE INC, services | 3,864.46 |
| HITOUCH BUSINESS SERVICES, supplies | 353.52 |
| HOBBY LOBBY, supplies | 1,017.58 |
| HY-VEE INC, supplies | 646.92 |
| INDUSTRIAL SALES CO, maint. | 171.49 |
| INGRAM LIBRARY SERVICES, books | 506.88 |
| J & J SMALL ENGINE, maint. | 926.52 |
| JE DUNN CONSTRUCTION CO, services | 833,381.00 |
| JOHNSTONE SUPPLY CO, bld&grnds | 258.87 |
| JUSTIN KOFOED LLC, services | 200.00 |
| KEVIN JONES, services | 525.00 |
| KIMBALL MIDWEST, supplies | 169.00 |
| KRIHA FLUID POWER CO, maint. | 207.75 |
| LARSEN SUPPLY CO, bld&grnds | 141.06 |
| LEADS ONLINE LLC, services | 3,773.00 |
| LIBRA INDUSTRIES INC, supplies | 467.00 |
| LIBRARY IDEAS LLC, media | 4.50 |
| LIBRARY SUPPLY, supplies | 199.66 |
| LOVELAND GRASS PAD, bld&grnds | 4.29 |
| LOWE'S, supplies | 290.99 |
| MACKIE CONSTRUCTION, services | 269,303.51 |
| MARCO INC, services | 144.65 |
| MENARDS-RALSTON, supplies | 3,260.17 |
| METRO COMM COLLEGE, services | 15,070.63 |
| MUD, utilities | 17,686.08 |
| MICHAEL TODD & CO, maint. | 630.71 |
| MID-AMERICAN BENEFITS INC, services | 4,725.53 |
| MIDWEST TAPE, media | 78.64 |
| MIDWEST TURF & IRRIGATION, supplies | 51.49 |
| MITCHELL1, services | 3,180.00 |
| MOBOTREX INC, services | 428.00 |
| MPH INDUSTRIES INC, maint. | 85.05 |
| MSC INDUSTRIAL, supplies | 82.64 |
| MURPHY TRACTOR & EQUIP, maint. | 307.78 |
| NE DEPT OF REVENUE, sales tax | 48.89 |
| NE ARBORISTS ASSOC, services | 145.00 |
| NE MUNICIPAL CLERKS ASSOC, services | 200.00 |
| NE STATE FIRE MARSHAL, bld&grnds | 72.00 |
| NEBRASKALAND TIRE INC, maint. | 499.44 |
| NORTH AMERICAN RESCUE, supplies | 574.31 |
| OFFICE DEPOT INC, supplies | 1,187.44 |
| OLSSON INC, services | 9,418.50 |
| OPPD, utilities | 41,541.48 |

MINUTE RECORD

December 6, 2022

No. 729 -- REDFIELD DIRECT E2106195KV

| | |
|--|------------|
| OMAHA WINNELSON, supplies | 117.93 |
| ONE CALL CONCEPTS INC, services | 247.24 |
| PAPILLION LA VISTA COMM SCHOOL, services | 11,110.00 |
| PAPILLION SANITATION, services | 1,872.66 |
| PAYROLL MAXX, payroll & taxes | 420,722.91 |
| PER MAR SECURITY, services | 242.84 |
| PETTY CASH, supplies | 25.00 |
| PITNEY BOWES, postage | 1,339.00 |
| POLCO, NAT'L RESEARCH CENTER, services | 19,800.00 |
| PORT-A-JOHNS, services | 660.00 |
| RIVER CITY RECYCLING, services | 366.50 |
| ROBERT HALF, servicees | 7,925.12 |
| ROLLIN GREEN GRADING, bld&grnds | 600.00 |
| ROSARIO CANIGILA, services | 2,710.00 |
| RTG BUILDING SERVICES INC, bld&grnds | 6,665.00 |
| SAMPSON CONSTRUCTION CO, services | 793,057.00 |
| SARPY COUNTY COURTHOUSE, services | 4,452.00 |
| SCHOLASTIC LIBRARY PUBLISHING, books | 78.28 |
| SHI INTERNATIONAL CORP, services | 758.00 |
| SIGN IT, services | 630.00 |
| SITE ONE LANDSCAPE SUPPLY, maint. | 1,071.63 |
| SNAP-ON INDUSTRIAL TOOL, services | 1,208.00 |
| SOUTHERN UNIFORM, apparel | 466.94 |
| SUBURBAN NEWSPAPERS INC, services | 385.02 |
| SUN VALLEY LANDSCAPING, bld&grnds | 252.00 |
| THE COLONIAL PRESS INC, services | 100.00 |
| THE RADAR SHOP, services | 906.00 |
| THE SCHEMMER ASSOCIATES INC, services | 588.75 |
| THEATRICAL MEDIA, services | 280.00 |
| THOMPSON DREESSEN & DORNER INC, services | 4,449.05 |
| TORNADO WASH LLC, maint. | 294.00 |
| TRANE U.S. INC, maint. | 70.90 |
| TRUCK CENTER COMPANIES, maint. | 1,741.01 |
| U.S. CELLULAR, phones | 1,960.86 |
| UNITED PARCEL, services | 21.96 |
| UNITED STATES POSTAL SERVICE, postage | 1,694.47 |
| US BANK NAT'L ASSOC, services & supplies | 28,143.21 |
| VAL VERDE ANIMAL HOSPITAL INC, services | 135.60 |
| VERIZON CONNECT NWF INC, phones | 615.22 |
| VERIZON WIRELESS, phones | 365.67 |
| VOIANCE LANGUAGE, services | 25.00 |
| WOODHOUSE FORD, maint. | 128.66 |
| WORLD TRADE PRESS, services | 400.00 |

Councilmember Thomas made a motion to approve the consent agenda. Seconded by Councilmember Sheehan. Councilmember Thomas reviewed the bills and stated everything was in order. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Community Development Director Fountain provided an update on the Land Use Plan.

Chief of Police Lausten reported on the search for a Fire Chief for the City of Papillion.

Director of Public Works Soucie provided an update on the Applewood Creek project.

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

B. ORDINANCE – APPROVE NON-EXCLUSIVE FRANCHISE AGREEMENT – ALLO LA VISTA, LLC

Councilmember Thomas introduced Ordinance No. 1464 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA APPROVING A NONEXCLUSIVE CABLE FRANCHISE OF ALLO LA VISTA, LLC; APPROVING AND AUTHORIZING EXECUTION OF A NONEXCLUSIVE FRANCHISE AGREEMENT; AND PROVIDING FOR PUBLICATION OF THIS ORDINANCE.

Councilmember Hale moved that the statutory rule requiring reading on three different days be suspended. Councilmember Sheehan seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Sell made a motion to approve final reading and adopt Ordinance 1464. Councilmember Frederick seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1464 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

C. AMEND VARIOUS SECTIONS OF THE LA VISTA MUNICIPAL CODE

1. ORDINANCE – AMEND SECTIONS 30.15, 30.41 AND 30.47

Councilmember Thomas introduced Ordinance No. 1465 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTIONS 30.15, 30.41 and 30.47; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

Councilmember Sell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Sheehan seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Frederick made a motion to approve final reading and adopt Ordinance 1465. Councilmember Hale seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1465 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

2. ORDINANCE – AMEND SECTION 31.22

Councilmember Thomas introduced Ordinance No. 1466 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA TO AMEND MUNICIPAL CODE SECTION 31.22; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF

Councilmember Sell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Hale seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

Councilmember Sheehan made a motion to approve final reading and adopt Ordinance 1466. Councilmember Thomas seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1466 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

3. ORDINANCE – AMEND SECTIONS 33.15, 33.16 AND 33.22

Councilmember Thomas introduced Ordinance No. 1467 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTIONS 33.15, 33.16 AND 33.22; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

Councilmember Sell moved that the statutory rule requiring reading on three different days be suspended. Councilmember Frederick seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Sheehan made a motion to approve final reading and adopt Ordinance 1467. Councilmember Frederick seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1467 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

4. ORDINANCE – AMEND SECTIONS 35.46, 35.47, 35.48, 35.49 AND 35.50

Councilmember Thomas introduced Ordinance No. 1468 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTIONS 35.46, 35.47, 35.48, 35.49 AND 35.50; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

Councilmember Quick moved that the statutory rule requiring reading on three different days be suspended. Councilmember Frederick seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Frederick made a motion to approve final reading and adopt Ordinance 1468. Councilmember Thomas seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1468 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

5. ORDINANCE – AMEND SECTIONS 114.01, 114.02, 114.24, 114.27, 114.30 AND 114.31

Councilmember Thomas introduced Ordinance No. 1469 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTIONS 114.01, 114.02, 114.24, 114.27, 114.30, AND 114.31; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

Councilmember Frederick moved that the statutory rule requiring reading on three different days be suspended. Councilmember Sell seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Sheehan made a motion to approve final reading and adopt Ordinance 1469. Councilmember Quick seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1469 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

6. ORDINANCE – AMEND SECTION 130.02

Councilmember Frederick introduced Ordinance No. 1470 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTION 130.02; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

Councilmember Frederick moved that the statutory rule requiring reading on three different days be suspended. Councilmember Sell seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Sheehan made a motion to approve final reading and adopt Ordinance 1470. Councilmember Quick seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1470 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

7. ORDINANCE – AMEND SECTION 150.17

Councilmember Frey introduced Ordinance No. 1471 entitled: AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, TO AMEND MUNICIPAL CODE SECTION 150.17; TO REPEAL CONFLICTING ORDINANCES PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE HEREOF.

Councilmember Frederick moved that the statutory rule requiring reading on three different days be suspended. Councilmember Thomas seconded the motion to suspend the rules and roll call vote on the motion. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Councilmember Sheehan made a motion to approve final reading and adopt Ordinance 1471. Councilmember Frederick seconded the motion. The Mayor then stated the question, "Shall Ordinance No. 1471 be passed and adopted?" Upon roll call vote the following Councilmembers voted aye Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

D. RESOLUTION – AWARD BID – EAST LA VISTA SEWER & PAVEMENT REHABILITATION

Councilmember Thomas introduced and moved for the adoption of Resolution No. 22-116 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE ADVERTISEMENT FOR BIDS FOR

MINUTE RECORD

No. 729 — REDFIELD DIRECT E2106195KV

December 6, 2022

PAVEMENT REHABILITATION ALONG LILLIAN AVENUE FROM PARK VIEW BOULEVARD TO JAMES AVENUE, TERRY DRIVE FROM 81ST STREET TO PARK VIEW BOULEVARD AND SOUTH 78TH STREET FROM PARK VIEW BOULEVARD TO HARRISON STREET.

WHEREAS, the Mayor and Council have determined that the Pavement Rehabilitation Project is necessary; and

WHEREAS, the FY23/FY24 Biennial Budget provides funding for this project; and

WHEREAS, the schedule for awarding this contract is as follows:

Publish Notice to Contractors December 14, 2022 and December 21, 2022

Open Bids January 6, 2023 at 10:00am at City Hall

City Council Award Contract January 17, 2023

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska hereby authorize the advertisement for bids for pavement rehabilitation along Lillian Avenue from Park View Boulevard to James Avenue, Terry Drive from 81st Street to Park View Boulevard and South 78th Street from Park View Boulevard to Harrison Street.

Seconded by Councilmember Frederick. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

E. RESOLUTION – AUTHORIZE REQUEST FOR BIDS – TERRY DR, LILLIAN AVENUE AND S. 78TH STREET PAVEMENT REHABILITATION

Councilmember Quick introduced and moved for the adoption of Resolution No. 22-117 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDED A CONTRACT TO NL&L CONCRETE INC., RALSTON, NEBRASKA FOR THE EAST LA VISTA SEWER AND PAVEMENT REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED \$4,716,079.05.

WHEREAS, the City Council of the City of La Vista has determined that the East La Vista Sewer and Pavement Rehabilitation Project is necessary; and

WHEREAS, the FY23/FY24 Biennial Budget provides funding for the proposed project; and

WHEREAS, bids were solicited, and two bids were received; and

WHEREAS Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any purchase over \$5,000.00;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, award the contract to NL&L Concrete Inc., Ralston Nebraska for the East La Vista Sewer and Pavement Rehabilitation Project in an amount not to exceed \$4,716,079.05.

Seconded by Councilmember Frey. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

F. RESOLUTION – APPLICATION FOR REPLAT – LOT51A CENTECH BUSINESS PARK – REPLAT SIX

Councilmember Frederick introduced and moved for the adoption of Resolution No. 22-118 entitled: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, FOR APPROVAL OF THE REPLAT FOR LOT 51A CENTECH BUSINESS PARK, TO BE REPLATTED AS LOTS 1 AND 2 CENTECH BUSINESS

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

PARK REPLAT SIX, A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 14 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN SARPY COUNTY, NEBRASKA.

WHEREAS, the owner of the above described property applied for approval of a replat for Lot 51A Centech Business Park, to be replatted as Lots 1 and 2 Centech Business Park Replat Six; and

WHEREAS, the City Engineer has reviewed the replat; and

WHEREAS, on November 17, 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 Lot 51A Centech Business Park, to be replatted as Lots 1 and 2 Centech Business Park Replat Six, a subdivision located in the southeast quarter of Section 13, Township 14 North, Range 11 East of the 6th P.M., Sarpy County, Nebraska, generally located northwest of the intersection of S. 133rd Street and Centech Road, be, and hereby is, approved.

Seconded by Councilmember Sell. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

Motion by Councilmember Thomas to move Comments from the Floor ahead of item G. Executive Session on the agenda. Seconded by Councilmember Frederick. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

COMMENTS FROM THE FLOOR

There were no comments from the floor.

G. EXECUTIVE SESSION – PERSONNEL

At 6:43 p.m. Councilmember Frederick made a motion to go into executive session for protection of an individual to discuss personnel matters. Seconded by Councilmember Frey. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: None. Motion carried. Mayor Kindig stated the executive session would be limited to the subject matter contained in the motion.

At 7:05 p.m. the Council came out of executive session. Councilmember Thomas made a motion to reconvene in open and public session. Seconded by Councilmember Hale. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

COMMENTS FROM MAYOR AND COUNCIL

Mayor Kindig and the Council thanked Councilmember Frey for filling in on the City Council.

Councilmember Hale and Councilmember Quick commented on their trip to the National League of Cities Conference in Kansas City.

Mayor Kindig announced there would be a short break after adjournment of this meeting to allow set up for the Organizational meeting.

At 7:12 p.m. Councilmember Thomas made a motion to adjourn the meeting. Seconded by Councilmember Frey. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Frey, Hale, and Sell. Nays: None. Abstain: None. Absent: None. Motion carried.

MINUTE RECORD

December 6, 2022

No. 729 — REDFIELD DIRECT E2106195KV

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

**LA VISTA CITY COUNCIL
ORGANIZATIONAL MEETING
December 6, 2022**

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 7:20 p.m. on December 6, 2022. Present were Councilmembers: Frederick, Ronan, Sheehan, Thomas, Quick, Hale and Sell. Also in attendance were City Attorney McKeon, City Administrator Gunn, Assistant City Administrator Ramirez, City Clerk Buethe, Chief of Police Lausten, Director of Administrative Services Pokorny, Community Development Director Fountain, Recreation Director Stopak, Director of Public Works Soucie, City Engineer Dowse and Library Director Barcal

A notice of the meeting was given in advance thereof by publication in the Times on November 23, 2023. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

1. CITY CLERK'S REPORT OF ELECTION RESULTS

City Clerk Buethe read the results of the General Election held on Tuesday, November 8, 2022 as certified by the Sarpy County Election Commissioner for the City of La Vista are as follows:

For the office of City Council Ward I, Kim J. Thomas received 854 votes and there were 24 write-in votes. For the office of City Council Ward II, Kelly R. Sell received 889 votes and there were 20 write-in votes. For the office of City Council Ward III, Alan W. Ronan received 833 votes, and there were 26 write-in votes. For the office of City Council Ward IV, Kevin B. Wetuski received 1,028 votes, and there were 21 write-in votes. For the La Vista City Sales and Use Tax Referendum, there were 2,579 yes votes and 2,504 no votes. For the La Vista Occupation Tax Referendum, there were 1,657 yes votes and 3,408 no votes.

2. ADMINISTRATION OF OATH TO COUNCILMEMBERS

KIM J. THOMAS – WARD I
KELLY R. SELL – WARD II
ALAN W. RONAN – WARD III
KEVIN B. WETUSKI – WARD IV

Mayor Kindig Administered the Oath of Office to Councilmembers: Thomas, Sell, and Ronan. Councilmember Wetuski, who was unable to attend, will take his Oath of Office at the next meeting.

3. ELECTION OF COUNCIL PRESIDENT

Mayor Kindig called for nominations for Council President. Councilmember Sell nominated Councilmember Thomas. Mayor Kindig asked for any further nominations. Councilmember Quick made a motion to cast a unanimous ballot for Councilmember Thomas for Council President. Seconded by Councilmember Hale. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Sell and Hale. Nays: None. Abstain: None. Absent: Wetuski. Motion carried.

4. COMMENTS FROM THE MAYOR AND COUNCIL

Mayor Kindig reported on the Sarpy County and Cities Wastewater Agency.

At 7:29 p.m. Councilmember Thomas made a motion to adjourn the meeting. Seconded by Councilmember Frederick. Councilmembers voting aye: Frederick, Ronan, Sheehan, Thomas, Quick, Hale and Sell. Nays: None. Abstain: None. Absent: Wetuski. Motion carried.

MINUTE RECORD

No. 729 — REDFIELD DIRECT E2106195KV

December 6, 2022

Organizational Meeting

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk



MEETING MINUTES
CITY OF LA VISTA PLANNING COMMISSION
8116 PARK VIEW BOULEVARD, LA VISTA, NE 68128
P: (402) 593-6400

THURSDAY, DECEMBER 1, AT 6:30 P.M.

The City of La Vista Planning Commission held a meeting on Thursday, December 1, 2022, in the Harold “Andy” Anderson Council Chambers at La Vista City Hall, 8116 Park View Boulevard. Legal notice of the public meeting and hearing were posted, distributed, and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission. All proceedings shown were taken while the convened meeting was open to the attendance of the public. The following Planning Commission members were present and absent:

PRESENT: Gayle Malmquist, Patrick Coghlan, Harold Sargus, Kevin Wetuski, Austin Partridge, John Gahan, and Mike Krzywicki

ABSENT: Jason Dale, Mike Circo, and Kathleen Alexander

STAFF PRESENT: Bruce Fountain, Community Development Director; Chris Solberg Deputy Community Development Director; Cale Brodersen, Assistant Planner; Meghan Engberg, Permit Technician; and Pat Dowse, City Engineer.

1. Call to Order

The meeting was called to order by Chairman Sargus at 6:30 p.m. Copies of the agenda and staff reports were made available to the public.

2. Approval of Joint Planning Commission & City Council Workshop November 14, 2022

Motion: Wetuski moved, seconded by Malmquist, to **approve** the November 14, 2022, minutes.

| | |
|---------------------|--|
| RESULT: | Motion carried 5-0-2 |
| MOTION BY: | Wetuski |
| SECONDED BY: | Malmquist |
| AYES: | Coghlan, Sargus, Krzywicki, Malmquist, Wetuski |
| NAYS: | None |
| ABSTAINED: | Gahan, Partridge |
| ABSENT: | Dale, Circo, Alexander |

Approval of Meeting Minutes from November 17, 2022

Motion: Gahan moved, seconded by Coghlan, to **approve** the November 17, 2022, minutes.

| | |
|---------------------|--|
| RESULT: | Motion carried 4-0-2 |
| MOTION BY: | Malmquist |
| SECONDED BY: | Coghlan |
| AYES: | Coghlan, Alexander, Malmquist, Partridge |
| NAYS: | None |
| ABSTAINED: | Gahan, Circo |
| ABSENT: | Wetuski, Dale, Sargus, Krzywicki |

3. Old Business

None.

4. New Business

A. Comprehensive Plan Amendments – Revised Future Land Use Plan and Future Land Use Map – City of La Vista

- i. **Staff Report – Bruce Fountain, Community Development Director:** Fountain provided a recap of the joint workshop that the Planning Commission had with City Council regarding the future land use plan and market analysis. He gave an overview of the plan and showed the changes to the future land use map that are suggested by the plan.

- ii. **Public Hearing: Sargus Opened the Public Hearing**

Dean Hokanson spoke about the lower Southport West property that he owns, and said that he is happy that multi-family housing is being considered as a potential option for that site. He said that his only concern with the plan is the potential of only allowing a lower-density project, which will not work economically for his partners. He stated that he is currently under contract with a multi-family housing developer that is interested in the site and feels that a higher-density project would be better for the overall Southport development. He also asked for clarification on the definition of Urban-Commercial.

Sargus closed the Public Hearing.

Fountain said the Urban-Commercial land use designation in the plan showed the density as being 12 plus, meaning that it could accommodate 12 units per acre or greater. It's setting 12 as the lower end and can go higher, depending on the project and development. He discussed the need identified in the plan for missing middle housing and that La Vista currently has a lack of housing choice and variety. We have more than our share of typical suburban apartment complexes, so we are looking for

something different , such as townhomes and condominiums and other types of missing middle housing options. He said the density will depend on what the overall project brings together, but that it could allow for higher density provided that it is not the typical suburban multi-family development.

Krzywicki referenced the packet that was sent out to Planning Commissioners that included the RDG presentation. He mentioned that it showed that in the last several years, an overwhelming number of the residential units that have been approved have been multifamily. He also discussed the balance of residential units in the City that are owner-occupied versus renter-occupied, and that La Vista has the highest percentage of nonowner-occupied residential in the area. He concluded that focusing on housing diversity, as discussed in the plan, could allow for more opportunities to develop owner-occupied housing.

Fountain said that the plan does not dictate whether newly constructed residential units must be for sale or for rent. City staff can encourage the development of homeownership opportunities, but it’s not something that can be regulated. He said the most important part is providing a variety of choices for housing. The demographic data shows that La Vista’s population is aging, and a lot of people don’t have an option for where to live in La Vista outside of their large home, so different housing options would allow for them to stay in La Vista, simultaneously opening up those single-family houses for new families.

Partridge said that he looks at the Land Use Plan through the lens of being the youngest member of the Commission, as someone who is starting a family, and as someone who has a lot of experience living in the large multi-unit apartment complexes. He expressed his excitement that the City is looking at those missing middle options for housing that would provide attractive housing options for people at all stages of their lives.

- iii. **Recommendation:** Coghlan moved, seconded by Malmquist, to recommend **approval** of the proposed amendments to the City’s Comprehensive Plan including a revised Future Land Use Plan and a revised Future Land Use Map.

| | |
|---------------------|--|
| RESULT: | Motion carried 7-0 |
| MOTION BY: | Coghlan |
| SECONDED BY: | Malmquist |
| AYES: | Coghlan, Malmquist, Partridge, Gahan, Wetuski, Sargus, Krzywicki |
| NAYS: | None |
| ABSTAINED: | None |
| ABSENT: | Dale, Circo, Alexander |

5. Comments from the Floor

None.

6. Comments from the Planning Commission

Wetuski said that this is his last meeting as a Planning Commission member before beginning his first term as a City Council member, and wanted to thank everyone.

1. Comments from Staff

2. Adjournment

Sargus adjourned the meeting at 6:54 p.m.

Reviewed by Planning Commission:

Planning Commission Secretary

Planning Commission Chair

APPLICATION AND CERTIFICATE FOR PAYMENT

A-5

Page: 1 of 3

TO OWNER: CITY OF LA VISTA NE
8116 PARK VIEW BLVD
LA VISTA, NE 68128

PROJECT: Central Park Pavilion and Site Improvements
8116 PARK VIEW BLVD
LA VISTA, NE 68128

APPLICATION NO.: 6
PERIOD TO : 11-30-2022
PROJECT NOS.: 21046300
INVOICE NO.: 21046300006

Distribution to:
☐ OWNER
☐ ARCHITECT
☐ CONTRACTOR
☐
☐

FROM J.E. Dunn Construction Company
CONTRACTOR: 1001 Locust St
Kansas City, MO 64106

ARCHITECT: Bruce Niedermeyer
RDG Planning & Design
1302 Howard Street
Omaha, NE 68102

CONTRACT DATE : 05-10-2022

CONTRACT FOR: Central Park Pavilion and Site Improvements

APPLICATION AND CERTIFICATE FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation sheet is attached.

| | | |
|---|----|------------|
| 1. ORIGINAL CONTRACT SUM | \$ | 15,955,803 |
| 2. Net change by change orders | \$ | 0 |
| 3. CONTRACT SUM TO DATE (Line1 +/- 2) | \$ | 15,955,803 |
| 4. TOTAL COMPLETED & STORED TO DATE | \$ | 5,028,980 |

(Column G on G703)

5. RETAINAGE:

| | | |
|--|----|-----------|
| (Total retainage Column I of G703) | \$ | 416,866 |
| 6. TOTAL EARNED LESS RETAINAGE | \$ | 4,612,114 |

(Line 4 less Line 5 Total)

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT

| | | |
|---------------------------------------|----|-----------|
| (Line 6 from prior Certificate) | \$ | 3,160,377 |
|---------------------------------------|----|-----------|

| | | |
|------------------------------|----|-----------|
| 8. CURRENT PAYMENT DUE | \$ | 1,451,737 |
|------------------------------|----|-----------|

| | | |
|--|----|------------|
| 9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) | \$ | 11,343,689 |
|--|----|------------|

| CHANGE ORDER SUMMARY | | ADDITIONS | DEDUCTIONS |
|---|---------------|-----------|------------|
| Change Order approved in previous months by Owner | | 0 | 0 |
| APPROVED THIS MONTH | | | |
| Number | Date Approved | | |
| | | | |
| | | | |
| | | | |
| Current Total: | | 0 | 0 |
| Net Change by Change Orders | | | 0 |

AIA DOCUMENT G702 - APPLICATION AND CERTIFICATE FOR PAYMENT THE AMERICAN INSTITUTE OF ARCHITECTS 1735 NEW YORK AVENUE NW WASHINGTON DC 20006

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for payment were issued and payments received from the Owner, and that current payment shown herein is now due.

WARNING: DO NOT CHANGE ESTABLISHED PAYMENT INSTRUCTIONS FOR PAYMENTS TO J.E. DUNN CONSTRUCTION COMPANY. J.E. Dunn Construction Company does not change its bank routing or account numbers. Do not accept or rely upon emails or correspondence requesting changes to J.E. Dunn Construction Company's established payment instructions. Any change to J.E. Dunn Construction Company's payment instructions can only be made by a fully executed Change Order to the Agreement between Owner and J.E. Dunn Construction Company.

Contractor: J.E. Dunn Construction Company

By: John Dordun Date: 12/6/2022

State of: Nebraska

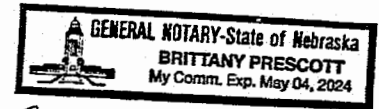
County of: Sarpy

Subscribed and sworn to before

me this 6th day of December 2022

Notary Public: [Signature]

My Commission expires: May 4, 2024



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of Work is in accordance with the Contract Documents, and the Contractor is entitled to the payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED.....\$ 1,451,737.00 ← **PAY THIS AMOUNT**

(Attach explanation if amount certified differs from the amount applied for. Initial figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: Bruce Niedermeyer

By: [Signature] Date: 12/06/22

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

OK To Pay
PMD 12/9/22
16,710,917.00 - PAID 16,001

J.E. Dunn Construction Company

CONTINUATION SHEET

AIA DOCUMENT G703

Page: 2

AIA DOCUMENT G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached.
In tabulation below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 6

APPLICATION DATE: 12-06-2022

INVOICE NO.:

PERIOD TO: 11-30-2022

21046300006

PROJECT NO: 21046300

| A ITEM NO. | B DESCRIPTION OF WORK | C SCHEDULED VALUE | | | D E WORK COMPLETED (D+E) | | F MATERIAL PRESENTLY STORED | G TOTAL COMPLETED AND STORED TO DATE | PER- %(G/C) | H BALANCE TO FINISH | I RETAINAGE |
|---------------|------------------------------------|----------------------|------------------|-----------|---------------------------------|-------------|--------------------------------------|--|----------------|---------------------------|----------------|
| | | ORIGINAL | CHANGE ORDERS | CURRENT | FROM PREVIOUS APPLICATION | THIS PERIOD | | | | | |
| 01 | PRECONSTRUCTION | | | | | | | | | | |
| | | 14,300 | 0 | 14,300 | 14,300 | 0 | 0 | 14,300 | 100 | 0 | 0 |
| | PRECONSTRUCTION Total: | 14,300 | 0 | 14,300 | 14,300 | 0 | 0 | 14,300 | 100 | 0 | 0 |
| 02 | GENERAL CONDITIONS | | | | | | | | | | |
| | | 1,045,767 | -184,700 | 861,067 | 261,847 | 16,866 | 0 | 278,713 | 32 | 582,354 | 0 |
| | GENERAL CONDITIONS Total: | 1,045,767 | -184,700 | 861,067 | 261,847 | 16,866 | 0 | 278,713 | 32 | 582,354 | 0 |
| 03 | PERMITS, BONDS, & INSURANCE | | | | | | | | | | |
| | | 308,977 | 135,668 | 444,645 | 270,727 | 173,918 | 0 | 444,645 | 100 | 0 | 0 |
| | PERMITS, BONDS, & INSURANCE Total: | 308,977 | 135,668 | 444,645 | 270,727 | 173,918 | 0 | 444,645 | 100 | 0 | 0 |
| 04 | DIRECT COSTS | | | | | | | | | | |
| 02330 | Earthwork | 337,026 | 9,862 | 346,888 | 271,482 | 0 | 0 | 271,482 | 78 | 75,406 | 27,148 |
| 02455 | Pipe Piles | 0 | 156,050 | 156,050 | 156,050 | 0 | 0 | 156,050 | 100 | 0 | 15,605 |
| 02500 | Site Utilities | 679,094 | 15,302 | 694,396 | 1,075 | 0 | 0 | 1,075 | 0 | 693,321 | 108 |
| 02790 | Athletic Surfacing | 96,311 | -65,285 | 31,026 | 0 | 0 | 0 | 0 | 0 | 31,026 | 0 |
| 02810 | Lawn Sprinklers | 62,140 | 147,680 | 209,820 | 0 | 0 | 0 | 0 | 0 | 209,820 | 0 |
| 02815 | Fountain Allowance | 336,300 | 0 | 336,300 | 0 | 0 | 0 | 0 | 0 | 336,300 | 0 |
| 02833 | Retaining Wall | 339,000 | 0 | 339,000 | 0 | 0 | 0 | 0 | 0 | 339,000 | 0 |
| 02900 | Landscaping | 135,400 | 75,383 | 210,783 | 0 | 0 | 0 | 0 | 0 | 210,783 | 0 |
| 03330 | CIP Concrete | 4,002,844 | -173,050 | 3,829,794 | 1,580,189 | 679,090 | 0 | 2,259,279 | 59 | 1,570,515 | 225,928 |
| 04210 | Masonry | 859,200 | 0 | 859,200 | 0 | 513,577 | 0 | 513,577 | 60 | 345,623 | 51,358 |
| 05100 | Structural Steel | 616,500 | 27,919 | 644,419 | 503,967 | 30,920 | 0 | 534,887 | 83 | 109,532 | 53,489 |
| 05700 | Railings | 677,665 | 0 | 677,665 | 0 | 0 | 0 | 0 | 0 | 677,665 | 0 |
| 06199 | Rough Carpentry | 159,565 | 0 | 159,565 | 0 | 0 | 0 | 0 | 0 | 159,565 | 0 |
| 06299 | Finish Carpentry | 37,037 | 6,798 | 43,835 | 0 | 0 | 0 | 0 | 0 | 43,835 | 0 |
| 07100 | Waterproofing | 74,384 | 203,814 | 278,198 | 54,674 | 0 | 0 | 54,674 | 20 | 223,524 | 5,467 |
| 07410 | Roofing | 181,000 | 323,948 | 504,948 | 0 | 7,750 | 0 | 7,750 | 2 | 497,198 | 775 |
| 074104 | Metal Wall Panels | 215,148 | 0 | 215,148 | 0 | 0 | 0 | 0 | 0 | 215,148 | 0 |
| 07460 | Siding | 27,096 | -27,096 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 07900 | Joint Sealants | 19,051 | -19,051 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 08110 | Doors & Hardware | 115,922 | -13,354 | 102,568 | 0 | 0 | 0 | 0 | 0 | 102,568 | 0 |
| 08330 | Colling Doors | 25,718 | -8,710 | 17,008 | 0 | 0 | 0 | 0 | 0 | 17,008 | 0 |
| 08400 | Glazing | 135,180 | 27,840 | 163,020 | 1,650 | 0 | 0 | 1,650 | 1 | 161,370 | 165 |
| 09250 | Framing & Drywall | 96,421 | 79,400 | 175,821 | 7,500 | 0 | 0 | 7,500 | 4 | 168,321 | 750 |
| 09300 | Flooring | 83,180 | -56,869 | 26,311 | 0 | 0 | 0 | 0 | 0 | 26,311 | 0 |
| 09900 | Painting | 98,705 | -50,305 | 48,400 | 0 | 0 | 0 | 0 | 0 | 48,400 | 0 |
| 10199 | Specialties | 27,636 | 61,585 | 89,221 | 0 | 0 | 0 | 0 | 0 | 89,221 | 0 |

J.E. Dunn Construction Company

CONTINUATION SHEET

AIA DOCUMENT G703

Page: 3

AIA DOCUMENT G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification is attached.
In tabulation below, amounts are stated to the nearest dollar.
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NUMBER: 6

APPLICATION DATE: 12-06-2022

PERIOD TO: 11-30-2022

PROJECT NO: 21046300

INVOICE NO.:

21046300006

| A ITEM NO. | B DESCRIPTION OF WORK | C SCHEDULED VALUE | | | D WORK COMPLETED (D+E) | | F MATERIAL PRESENTLY STORED | G TOTAL COMPLETED AND STORED TO DATE | PER- %(G/C) | H BALANCE TO FINISH | I RETAINAGE |
|---------------|--------------------------|----------------------|------------------|------------|---------------------------------|-------------|--------------------------------------|--|----------------|---------------------------|----------------|
| | | ORIGINAL | CHANGE ORDERS | CURRENT | FROM PREVIOUS APPLICATION | THIS PERIOD | | | | | |
| 10800 | Site Furnishings | 447,280 | -134,417 | 312,863 | 0 | 0 | 0 | 0 | 0 | 312,863 | 0 |
| 11600 | Food Service Equipment | 504,142 | -89,449 | 414,693 | 0 | 0 | 0 | 0 | 0 | 414,693 | 0 |
| 12510 | Boardwalk | 390,947 | -79,989 | 310,958 | 0 | 0 | 0 | 0 | 0 | 310,958 | 0 |
| 15400 | Plumbing & HVAC | 1,228,350 | 0 | 1,228,350 | 206,530 | 64,423 | 0 | 270,953 | 22 | 957,397 | 27,095 |
| 16000 | Electrical | 1,549,371 | 0 | 1,549,371 | 27,516 | 62,271 | 0 | 89,787 | 6 | 1,459,584 | 8,979 |
| 35000 | Escalation Allowance | 192,065 | -192,065 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | DIRECT COSTS Total: | 13,749,678 | 225,941 | 13,975,619 | 2,810,632 | 1,358,032 | 0 | 4,168,664 | 30 | 9,806,955 | 416,866 |
| 05 | CONTINGENCY | 447,515 | -176,909 | 270,606 | 0 | 0 | 0 | 0 | 0 | 270,606 | 0 |
| | CONTINGENCY Total: | 447,515 | -176,909 | 270,606 | 0 | 0 | 0 | 0 | 0 | 270,606 | 0 |
| 06 | FEE | 389,566 | 0 | 389,566 | 83,938 | 38,720 | 0 | 122,658 | 31 | 266,908 | 0 |
| | FEE Total: | 389,566 | 0 | 389,566 | 83,938 | 38,720 | 0 | 122,658 | 31 | 266,908 | 0 |
| | Total: | 15,955,803 | 0 | 15,955,803 | 3,441,444 | 1,587,536 | 0 | 5,028,980 | 32 | 10,926,823 | 416,866 |
| | Project Total: | 15,955,803 | 0 | 15,955,803 | 3,441,444 | 1,587,536 | 0 | 5,028,980 | 32 | 10,926,823 | 416,866 |

AIA DOCUMENT G703 - APPLICATION AND CERTIFICATE FOR PAYMENT

THE AMERICAN INSTITUTE OF ARCHITECTS 1735 NEW YORK AVENUE NW WASHINGTON DC 20006

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|--|---|--|
| CITY CENTRE MUSIC VENUE, LLC AND ASTRO THEATER, LLC APPLICATION FOR PAYMENT – DISBURSEMENT OF EDP AWARD FUNDS | RESOLUTION ORDINANCE RECEIVE/FILE | RITA RAMIREZ ASSISTANT CITY ADMINISTRATOR |

SYNOPSIS

An application for payment of a portion of Economic Development Program (EDP) Award funds has been submitted by City Centre Music Venue, LLC and Astro Theater, LLC for work completed to date on the Astro Theater in the amount of \$416,199.84.

FISCAL IMPACT

The FY23/FY24 Biennial Budget provides funding for the EDP award for the Astro Theater project.

RECOMMENDATION

Approval.

BACKGROUND

On September 3, 2021 an Economic Development Program Agreement was executed by the City of La Vista, City Centre Music Venue, LLC and Astro Theater, LLC, authorizing an EDP award of up to \$5,500,000 to be used in conjunction with other funding sources for constructing and equipping the Astro Theater project.

Subsequently, on December 17, 2021 an Amended and Restated Disbursement Agreement was executed by all parties directing how funds, including the EDP award from the City of La Vista, would be disbursed. The agreement outlines several requirements that must be met prior to any disbursement of funds.

Construction of the Astro Theater commenced in the fall of 2021, and the City has received an eleventh request for payment* of EDP funds for the project in the amount of \$416,199.84. City staff have reviewed the documentation submitted with the pay request to assure compliance with the disbursement agreement and has obtained copies of all documents required by the agreement. The City Engineer and Chief Building Official have reviewed the pay request documentation and verified that it coincides with the construction progress they have observed on site. Copies of all documentation are on file in the office of the City Clerk.

As construction progresses and additional pay requests are submitted for the remainder of the EDP award, we will continue to follow the process of ensuring that all required documentation has been received and that completed work has been verified by the City Engineer and the Chief Building Official. Subsequent to those verifications, pay requests will be placed on the Council agenda for approval.

*Note: The Application for Payment indicates this is Pay Request No. 13, however this is the eleventh request for disbursement of EDP funds from La Vista. City Centre Music Venue LLC is required by the disbursement agreement to use this application for payment requests from all lending agencies as well as the City of La Vista, resulting in the requests being numbered consecutively as they are issued.

| EDP Award Total | Pay Application | | | % of Total | Remaining Balance |
|-----------------|-----------------|--------------|----------|------------|-------------------|
| | Number | Amount | Date | | |
| | | | | | |
| \$5,500,000.00 | 1 | \$166,420.42 | 2/1/22 | 3.03% | \$5,333,579.58 |
| | 2 | \$268,288.26 | 2/15/22 | 7.90% | \$5,065,291.32 |
| | 3 | \$163,869.70 | 3/15/22 | 10.88% | \$4,901,421.62 |
| | 4 | \$259,549.32 | 4/19/22 | 15.6% | \$4,641,872.30 |
| | 5 | \$636,290.65 | 5/17/22 | 27.17% | \$4,005,581.65 |
| | 6 | \$831,300.09 | 7/5/22 | 42.29% | \$3,174,281.56 |
| | 7 | \$591,062.99 | 8/2/22 | 53.03% | \$2,583,218.57 |
| | 8 | \$570,800.06 | 9/6/22 | 63.41% | \$2,012,418.51 |
| | 9 | \$297,711.03 | 10/18/22 | 68.82% | \$1,714,707.48 |
| | 10 | \$634,848.49 | 11/15/22 | 80.37% | \$1,079,858.99 |
| | 11 | \$416,199.84 | 12/20/22 | 87.93% | \$ 663,659.15 |

City of La Vista
8116 Park View Blvd
La Vista, NE 68128
P: (402) 331-4343
CityofLaVista.org

ECONOMIC DEVELOPMENT PROGRAM – DISBURSEMENT REQUEST FORM



Date of Request: 12/12/22 Project Name: Astro Theater – City Centre Music Venue, LLC

Project Address: Lot 13, La Vista City Centre

Request Amount: \$416,199.84

Request No.: 11

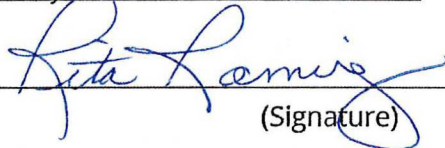
See attached for funding disbursement request details.

CITY OF LA VISTA APPROVALS

Assistant City Administrator, Rita Ramirez

☒ No Comments

☐ Comments (see below):

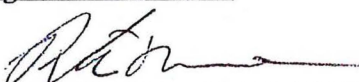

(Signature)

12/14/22
(Date)

City Engineer, Pat Dowse

☒ No Comments

☐ Comments (see below):

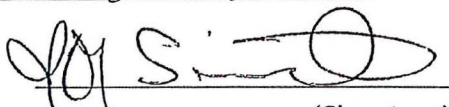

(Signature)

12/14/22
(Date)

Chief Building Official, Jeff Sinnett

☒ No Comments

☐ Comments (see below):


(Signature)

12/14/2022
(Date)

Comments/Contingencies:

Approved by City Council? ☐ Yes: Date _____

☐ No

EXHIBIT C
APPLICATION FOR PAYMENT

Request No. 13

Date: 12/12/2022

Amount Requested \$ \$416,199.84

To: American National Bank; Petros PACE Finance Titling Trust; Farmers State Bank; City of La Vista; TitleCore National, LLC

Reference is hereby made to that certain Disbursement Agreement (the "Agreement"), dated as of [**], 2021, by and among CITY CENTRE MUSIC VENUE, LLC, a Nebraska limited liability company ("Improvement Owner"), ASTRO THEATER, LLC, a Nebraska limited liability company ("Tenant"), AMERICAN NATIONAL BANK, a national banking association ("Construction Lender"), PETROS PACE FINANCE TITLING TRUST, a Delaware statutory trust, ("PACE Lender"), FARMERS STATE BANK, a Nebraska state banking corporation ("TIF Lender"), the CITY OF LA VISTA, a Nebraska municipal corporation (the "City" and, together with Construction Lender, PACE Lender and TIF Lender, each a "Lender" and, collectively, the "Lenders"), and TITLECORE NATIONAL, LLC, a Nebraska limited liability company (the "Disbursing Agent"). Capitalized terms used and not otherwise defined herein have the meanings set forth in the Agreement.

The undersigned hereby requests the disbursement of construction funds in accordance with this request, and hereby certifies as follows:

1. The amounts requested either have been paid by the Improvement Owner or Tenant, as applicable, or are justly due to contractors, subcontractors, materialmen, engineers, architects or other persons (whose names are stated on Attachment I hereto and whose invoices are attached hereto) in accordance with the invoice(s) attached hereto who have performed necessary and appropriate work or furnished necessary and appropriate materials, equipment or furnishings in the acquisition, construction and installation of the Project.
2. All construction of the Project prior to the date hereof has been done in substantial accordance with the Plans and all funds previously disbursed by a Lender have been used for one or more purposes permitted under the Financing Agreements for such Lender.
3. The funds from the requested Advance will be used for one or more purposes permitted under the Financing Agreements.
4. Attached hereto is a completed AIA Document G702 or equivalent document, signed by the General Contractor and a list of the applicable payees if payment will be made to an entity or entities other than the General Contractor.
5. True and correct copies of the bills or invoices to be paid with the requested Advance are enclosed herewith, along with conditional lien waivers from all contractors, subcontractors and material suppliers to be paid with the requested Advance and unconditional lien waivers from all contractors, subcontractors and material suppliers paid with the proceeds of prior Advances.
6. Attached hereto is a certification by the Architect certifying that work has been completed and materials are in place as indicated by the request for payment of the General Contractor.

7. The improvements constructed as part of the Project, as completed to date, do not and, if completed in substantial accordance with the Plans, will not, violate any laws.
8. Other than liens and encumbrances permitted by the terms of the Financing Agreements, no liens of any kind have been filed against Improvement Owner, Tenant or the Project (and, to the knowledge of Improvement Owner and Tenant, no stop notice of any kind has been filed or served with respect to any construction work previously performed), or a payment or discharge bond sufficient to protect Lenders and their respective interests in the Project have been recorded as required by applicable Laws.
9. All governmental licenses and permits required for the Project, as completed to date, have been obtained and will be exhibited to Lenders upon request.

CITY CENTER MUSIC VENUE, LLC, a Nebraska limited liability company

By: 

Name:

Title:

ASTRO THEATER, LLC, a Nebraska limited liability company

By: 

Name:

Title:

CITY+VENTURES

Astro Theater
Disbursement Summary
Date: 12/12/2022

| Date: 12/12/2022 | | 9/2/2021 | | | | | | | | | | | | | Disbursements | | |
|------------------|--|----------|--|--|--|--|--|--|--|--|--|--|--|--|---------------|--|--|
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |



Remit To:
 RDG Planning & Design
 301 Grand Avenue
 Des Moines, Iowa 50309

Rita Ramirez
 City of La Vista
 8116 Park View Blvd
 La Vista, NE 68128

November 30, 2022
 Project No: R3001.477.00
 Invoice No: 52637

Project R3001.477.00 City of La Vista - On Call Services

Professional Services through November 30, 2022

Professional Personnel

| | Hours | Rate | Amount |
|---------------------------|-------|--------|-------------------|
| Lighting Designer | 3.00 | 220.00 | 660.00 |
| Landscape Architect | 2.50 | 130.00 | 325.00 |
| Student Intern | 14.25 | 70.00 | 997.50 |
| Totals | 19.75 | | 1,982.50 |
| Total Labor | | | 1,982.50 |
| Total this Invoice | | | \$1,982.50 |

R. Ramirez
 12-15-22

16.71.0917.000 PARK 17006



| | | | | |
|---------|--------------|-------------------------------------|---------|-------|
| Project | R3001.477.00 | LaVista, City of - On Call Services | Invoice | 52637 |
|---------|--------------|-------------------------------------|---------|-------|

Billing Backup

RDG Planning & Design, Inc.

Invoice 52637 Dated 11/30/2022

Friday, December 9, 2022

3:09:38 PM

| | | |
|---------|--------------|-------------------------------------|
| Project | R3001.477.00 | City of La Vista - On Call Services |
|---------|--------------|-------------------------------------|

Professional Personnel

| | | Hours | Rate | Amount | |
|---|------------|-------|---------------------------|----------|-------------------|
| Lighting Designer | | | | | |
| Lighting Designer | 11/1/2022 | 2.00 | 220.00 | 440.00 | |
| Park lighting options | | | | | |
| Lighting Designer | 11/17/2022 | 1.00 | 220.00 | 220.00 | |
| Park lighting options | | | | | |
| Landscape Architect | | | | | |
| Landscape Architect | 11/1/2022 | 1.00 | 130.00 | 130.00 | |
| Central Park lighting design coordination | | | | | |
| Landscape Architect | 11/10/2022 | .50 | 130.00 | 65.00 | |
| Central Park lighting design coordination | | | | | |
| Landscape Architect | 11/16/2022 | 1.00 | 130.00 | 130.00 | |
| Central Park Lighting Coordination | | | | | |
| Student Intern | | | | | |
| Intern Student | 11/1/2022 | 1.00 | 70.00 | 70.00 | |
| Central Park Lighting Design | | | | | |
| Intern Student | 11/2/2022 | 2.50 | 70.00 | 175.00 | |
| Central Park Lighting Design | | | | | |
| Intern Student | 11/10/2022 | 4.00 | 70.00 | 280.00 | |
| Central Park Lighting Design | | | | | |
| Intern Student | 11/11/2022 | 1.75 | 70.00 | 122.50 | |
| Central Park Lighting Design | | | | | |
| Intern Student | 11/17/2022 | 5.00 | 70.00 | 350.00 | |
| Totals | | 19.75 | | 1,982.50 | |
| Total Labor | | | | | 1,982.50 |
| | | | Total this Project | | \$1,982.50 |
| | | | Total this Report | | \$1,982.50 |



Remit To:
RDG Planning & Design
301 Grand Avenue
Des Moines, Iowa 50309

Rita Ramirez
 City of La Vista
 City Hall
 8116 Park View Blvd.
 La Vista, NE 68128

November 30, 2022
 Project No: R3003.066.01
 Invoice No: 52638

Project R3003.066.01 City of La Vista - Placemaking Ph1 SD-CA

Professional Services through November 30, 2022

Fee

| Billing Phase | Fee | Billed % | Earned | Prior Fee | Current Fee |
|-------------------------|------------|----------|------------|------------|------------------|
| Schematic Design | 149,000.00 | 100.00 | 149,000.00 | 149,000.00 | 0.00 |
| Design Development | 180,000.00 | 100.00 | 180,000.00 | 180,000.00 | 0.00 |
| Construction Documents | 275,330.00 | 100.00 | 275,330.00 | 275,330.00 | 0.00 |
| Bidding/Negotiation | 44,000.00 | 100.00 | 44,000.00 | 44,000.00 | 0.00 |
| Contract Administration | 244,000.00 | 55.00 | 134,200.00 | 119,560.00 | 14,640.00 |
| Total Fee | 892,330.00 | | 782,530.00 | 767,890.00 | 14,640.00 |
| Total Fee | | | | | 14,640.00 |

Reimbursable Expenses

| | |
|----------------------------|--------------|
| Printing | .30 |
| Postage | 11.72 |
| Total Reimbursables | 12.02 |
| | 12.02 |

Billing Limits

| | Current | Prior | To-Date |
|-----------|---------|----------|----------|
| Expenses | 12.02 | 1,406.66 | 1,418.68 |
| Limit | | | 8,600.00 |
| Remaining | | | 7,181.32 |

Total this Invoice \$14,652.02

Outstanding Invoices

| Number | Date | Balance |
|--------------|------------|------------------|
| 52348 | 10/31/2022 | 21,962.00 |
| Total | | 21,962.00 |

R. Ramirez
12-15-22

16,710,917.000 PARK 18001



**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|---|---|----------------------------|
| CHANGE ORDER NO. 1 CENTRAL PARK ACCESS ROAD – PARK VIEW | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | PAT DOWSE CITY ENGINEER |

SYNOPSIS

A resolution has been prepared to execute Change Order No. 1 with Mackie Construction to provide for additional items of work that result in a deduct of \$52,308.40, and a contract price not to exceed \$1,038,166.03 and to adjust the substantial competition date to April 1, 2023, and the final completion date to May 1, 2023.

FISCAL IMPACT

The FY23/FY24 Biennial Budget provides funding for this project.

RECOMMENDATION

Approval.

BACKGROUND

A contract with Mackie Construction was approved on June 15, 2022 to add the Central Park Access to Park View Boulevard for the fire lane on the north end of La Vista City Centre. The added items to Change Order No. 1 account for unsuitable soils encountered under the box culvert, which required over excavation and placement of rock a geogrid material and for some conduits and electrical boxes for the lighting of the trees near the Park View Boulevard entrance to Central Park.

The deletions are a result of eliminating a portion of the temporary lighting and OPPD installations of temporary lighting, thereby reducing the costs for temporary lighting, and eliminating the need to stockpile/surplus temporary lighting fixtures. Due to the lead times associated with the box culvert fabrication, the project timeline also needs to be shifted to the substantial completion date of April 1, 2023, with a final completion date of May 1, 2023. The roadway paving is 100% completed, therefore access to the fire lane can be made, meaning any remaining work should not impact the other project timelines within the vicinity.

Change Order No. 1 decreases the contract not to exceed amount by 4.8% or \$52,308.40 for a revised total of \$1,038,166.03.

Change Order No.1 is attached for further review.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT WITH MACKIE CONSTRUCTION TO PROVIDE FOR ADDITIONAL ITEMS OF WORK THAT RESULT IN A DEDUCT OF \$52,308.40, AND A CONTRACT PRICE NOT TO EXCEED \$1,038,166.03.

WHEREAS, the City has determined it is necessary to make additions of work to the contract; and

WHEREAS, the FY23/FY24 Biennial Budget provides funding for this project.

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

NOW THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the Mayor is authorized to execute the necessary documents for Change Order No. 1 to the contract with Mackie Construction to provide for additional items of work that result in a deduct of \$52,308.40, and a contract price not to exceed \$1,038,166.03.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

Change Order No. 1

DATE: December 14, 2022

PROJECT: Central Park Access Road – Park View

TD2 File NO.: 171-422.34

OWNER: City of La Vista, Nebraska
8116 Park View Blvd.
La Vista, NE 68128

CONTRACTOR: Mackie Construction
14565 Portal Cir. Suite 117
La Vista, NE 68138

CONTRACT DATE: June 15, 2022

DESCRIPTION OF CHANGES:

CO-1.0 The Contract, dated June 15, 2022, states, "Contractor agrees to commence work within 10 days after receiving written notification from the Engineer to proceed, and to complete all work by December 1, 2022. As time is of the essence, for each calendar day that any work shall remain uncompleted after December 1, 2022, the Contractor shall pay to the Owner the sum of \$500.00 per day". The previous statement shall be modified to read, "Contractor agrees to commence work within 10 days after receiving written notification from the Engineer to proceed, and to reach substantial completion by April 1, 2023. Substantial completion shall be defined as when the work is sufficiently complete in accordance with the Contract Documents where the Owner can occupy or utilize the culvert and site paving for its intended purposes. The Contractor agrees to complete all work by May 1, 2023. As time is of the essence, for each calendar day that any work shall remain uncompleted after May 1, 2023, the Contractor shall pay to the Owner the sum of \$500.00 per day".

ADDITIONS:

| Item | Description | Quantity | Unit | Unit Price | Amount |
|---------|---|----------|------|-------------------|--------------|
| CO-1.1. | Milbank 100A Commercial Power Pedestal, In Place | 1 | LS | \$ 7,600.00 / LS | \$ 7,600.00 |
| CO-1.2 | Furnish & Install 1-1.2 Inch HDPE Conduit, In Place | 760 | L.F. | \$ 18.00 / L.F. | \$ 13,680.00 |
| CO-1.3 | #3 AWG THHN Copper Conductor (OPPD Primary) | 300 | L.F. | \$ 5.16 / L.F. | \$ 1,548.00 |
| CO-1.4 | Furnish & Install Fiberglass Pull Box, Type PB-6, Access Gate Controls | 1 | EA. | \$ 1,815.00 / EA. | \$ 1,815.00 |
| CO-1.5 | #12 AWG THHN Copper Conductor (Access Gate Controls) | 480 | L.F. | \$ 1.79 / L.F. | \$ 859.20 |
| CO-1.6 | #6 AWG THHN Copper Conductor (Holiday Lighting Circuit) | 1,500 | L.F. | \$ 4.58 / L.F. | \$ 6,870.00 |
| CO-1.7 | Receptacle Post, Containing One (1) GFCI Duplex Receptacle with In-Use Cover and Mounted in a Gard-N-Post | 2 | EA. | \$ 950.00 / EA. | \$ 1,900.00 |
| CO-1.8 | Soil Stabilization at Box Culvert | 1 | LS | \$ 8,058.09 / LS | \$ 8,058.09 |

DELETIONS:

| Item | Description | Quantity | Unit | Unit Price | | | Amount |
|---------|--|----------|--------|------------|-----------|----------|----------------|
| CO-1.9 | Delete 1-1/2" PVC Conduit, Contract Item 53 | 160.00 | L.F. | \$ | 24.34 | / L.F. | \$ (3,894.40) |
| CO-1.10 | Delete Fiberglass Pull Box, Type PB-6, Contract Item 54 | 1.00 | EA. | \$ | 2,129.00 | / EA. | \$ (2,129.00) |
| CO-1.11 | Delete Grounding Rod, Copper Clad, Contract Item 55 | 9.00 | EA. | \$ | 480.93 | / EA. | \$ (4,328.37) |
| CO-1.12 | Delete Roadway Area Luminaire, LED Fixture, Contract Item 56 | 8.00 | EA. | \$ | 1,420.51 | / EA. | \$ (11,364.08) |
| CO-1.13 | Delete Light Poles, Class V-30 ft Treated Poles, Contract Item 57 | 8.00 | EA. | \$ | 3,454.32 | / EA. | \$ (27,634.56) |
| CO-1.14 | Delete Circuit Breakers, Bolt-on, 10k A I.C., 2 Pole, Contract Item 58 | 2.00 | EA. | \$ | 304.98 | / EA. | \$ (609.96) |
| CO-1.15 | Delete Excavate Utility Trench, Common Earth, Contract Item 59 | 1300.00 | L.F. | \$ | 14.67 | / L.F. | \$ (19,071.00) |
| CO-1.16 | Delete Wire, Copper, Solid, 600 volt, #12, Contract Item 60 | 0.60 | C.L.F. | \$ | 213.10 | / C.L.F. | \$ (127.86) |
| CO-1.17 | Delete PVC Conduit, Schedule 40, 3/4" Dia., Contract Item 61 | 200.00 | L.F. | \$ | 22.44 | / L.F. | \$ (4,488.00) |
| CO-1.18 | Delete Wire, Copper, Solid, 600 volt, #10, Contract Item 62 | 1.10 | C.L.F. | \$ | 675.65 | / C.L.F. | \$ (743.22) |
| CO-1.19 | Delete PVC Conduit, Schedule 40, 1-1/2" Dia., Contract Item 63 | 40.00 | L.F. | \$ | 44.87 | / L.F. | \$ (1,794.80) |
| CO-1.20 | Delete Wire, Copper, Solid, 600 volt, #6, Contract Item 64 | 0.04 | C.L.F. | \$ | 8,991.05 | / C.L.F. | \$ (359.64) |
| CO-1.21 | Delete Load Centers-Meter Combo, 1 Phase, 3 Wire, Contract Item 65 | 1.00 | EA. | \$ | 13,606.80 | / EA. | \$ (13,606.80) |
| CO-1.22 | Delete HDPE Conduit, DR 13.5, 1-1/2", Contract Item 66 | 100.00 | L.F. | \$ | 44.87 | / L.F. | \$ (4,487.00) |

TOTAL ADDITIONS = \$42,330.29

TOTAL DEDUCTIONS = (\$ 94,638.69)

NET CHANGE IN CONTRACT PRICE = (\$ 52,308.40)

ORIGINAL CONTRACT PRICE = \$ 1,090,474.43

REVISED CONTRACT PRICE = \$ 1,038,166.03

Reasons for Changes:

The Contract has been modified to include the language and date for substantial completion. Due to the original December 1, 2022 project completion deadline, landscaping and seeding cannot reasonably be expected to grow. The Contractor shall agree to reach substantial completion by April 1, 2023 and to complete all work by May 1, 2023. Substantial completion shall be defined as when the work is sufficiently complete in accordance with the Contract Documents where the Owner can occupy or utilize the culvert and site paving for its intended purposes. The quantities for temporary lighting have been removed from the Contract as OPPD is to provide the temporary lighting for the project.



Bradley Huyck, P.E.
THOMPSON, DREESSEN & DORNER, INC.

The undersigned parties to the above-referenced contract hereby agree to the changes as set forth above.

THE CITY OF LA VISTA, NEBRASKA

MACKIE CONSTRUCTION

MAYOR

BY TITLE

CLERK

Attest

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|--|---|--|
| AMENDMENT NO. 1 TO ECONOMIC DEVELOPMENT PROGRAM AWARD PROMISSORY NOTE FOR THE ASTRO THEATER | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | RITA RAMIREZ ASST. CITY ADMINISTRATOR/ COMMUNITY SERVICES DIRECTOR |

SYNOPSIS

An amendment to the previously executed promissory note regarding the Economic Development Program award to City Ventures for the Astro Theater has been requested. This amendment adjusts the formula by which the interest on the loan portion of the award is calculated. This change is necessary to maintain consistency between the terms of the developer's construction loan with American National Bank and the EDP loan.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

On September 3, 2021 an Economic Development Program (EDP) Agreement was executed by the City of La Vista, City Centre Music Venue, LLC and Astro Theater, LLC, authorizing an EDP award of up to \$5,500,000 to be used in conjunction with other funding sources for constructing and equipping the Astro Theater project.

In conjunction with this agreement a Promissory Note was submitted to the City outlining how the funds were to be awarded - a \$3 million grant and a \$2.5 million loan, as well as the terms regarding repayment of the loan.

Section 2 of the Note provided that the repayable portion of the EDP award would bear interest and that interest and principal would be paid in the manner described, which included a "Specified Interest Rate" in part based on the Prime Rate published in the Wall Street Journal.

City Centre Music Venue, LLC and Astro Theater, LLC desire to amend the note to change the basis for calculating the "Specified Interest Rate" from the Prime Rate to the secured overnight financing rate (SOFR) published by the Board of Governors of the Federal Reserve System and Three-Year Treasury Rate.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF AMENDMENT NO. 1 TO THE ECONOMIC DEVELOPMENT PROGRAM (EDP) AWARD PROMISSORY NOTE FOR THE ASTRO THEATER.

WHEREAS, the Mayor and City Council of the City of La Vista Nebraska have previously executed a promissory note regarding the EDP award to City Centre Music Venue, LLC and Astro Theater, LLC; and

WHEREAS, Section 2 of the Note provided that the repayable portion of the EDP award would bear interest and outlined how that interest would be calculated; and

WHEREAS, City Centre Music Venue, LLC and Astro Theater, LLC desire to amend the note to change the basis by which the interest is calculated; and

WHEREAS, this change is necessary to maintain consistency between the terms of the developer's construction loan with American National Bank and the EDP loan.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, that the execution of Amendment No. 1 to the Economic Development Program (EDP) award promissory note for the Astro Theater is hereby authorized.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas D. Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

**PROMISSORY NOTE - ECONOMIC DEVELOPMENT PROGRAM AWARD
AMENDMENT NO. 1**

\$5,500,000.00

1. The undersigned maker(s), ASTRO THEATER, LLC and CITY CENTRE MUSIC VENUE, LLC, each a Nebraska limited liability company whose address is 222 S. 15th Street #1404S, Omaha, Nebraska 68102, ("Obligor(s)") executed (on August 30, 2021 and September 3, 2021, respectively) and delivered to the CITY OF LA VISTA, a Municipal Corporation in the State of Nebraska, ("City") a PROMISSORY NOTE - ECONOMIC DEVELOPMENT PROGRAM AWARD ("Note"), each promising to pay to the order of the City, at 8116 Park View Boulevard, La Vista, Nebraska 68128-2198, or at such other place as City may from time to time designate, the principal sum of FIVE MILLION, FIVE HUNDRED THOUSAND Dollars (\$5,500,000.00) ("Award") or so much thereof as is advanced and unpaid during the term of this Note under the terms of the agreement ("Award Agreement") between the City and Obligor(s) under the City of La Vista Economic Development Program ("EDP") made on or about an even date herewith, subject to conditions set forth in the Note that among other things provided for a Forgivable Portion of the Award in an amount up to THREE MILLION DOLLARS (\$3,000,000.00), as determined in accordance with the Award Agreement, to be forgiven and discharged upon completion and commencement of operations of the Project without breach in accordance with the Award Agreement, and a Repayable Portion of the Award in an amount up to TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) as determined in accordance with the Award Agreement to be paid to City, with interest from the date hereof on the unpaid principal balance and all sums due under this Note, on or before August 31, 2029 (the "Due Date") as provided in Section 2 of such Note.

2. Section 2 of the Note provided that the Repayable Portion of the Award shall bear interest, and interest and principal shall be paid, in the manner described in Exhibit "2" of the Note, including a "Specified Interest Rate" in part based on the Prime Rate published in the Wall Street Journal ("Prime Rate").

3. Obligor(s) desires to amend the Note including Exhibit "2" and the basis for calculating the "Specified Interest Rate" from the Prime Rate to the secured overnight financing rate ("SOFR") published by the Board of Governors of the Federal Reserve System and Three-Year Treasury Rate, consistent with changes to the Applicable Rate in a corresponding amendment to the September 3, 2021 Construction Loan Agreement between City Centre Music Venue, LLC and American National Bank to construct and equip the Astro Theater event center in La Vista City Centre, and related Side Letter specifying conditions to convert the Construction Loan to a Term Loan ("ANB Interest Modifications").

4. Obligor(s) hereby amends the Note as follows, effective as of the Amendment Effective Date (defined in section "6" below): Exhibit "2" of the Note shall be deleted and replaced in its entirety by Exhibit "2" presented with and incorporated into this Amendment by reference. Before the Amendment Effective Date, Exhibit "2" of the Note originally executed by Obligor(s) on August 30, 2021 and September 3, 2021 shall apply.

5. This Amendment shall be conditional on Obligor(s) executing the ANB Interest Modifications, and providing the City of La Vista Director of Administrative Services written notice that the ANB Interest Modifications have been executed, before January 1, 2023 or such other date as the Director of Administrative Services may agree in writing ("ANB Interest Modifications Date").

6. This Amendment shall be effective ("Amendment Effective Date") as of December 1, 2022, provided the requirements of immediately preceding section 5 are satisfied.

7. Obligor(s) represents and warrants to City that no default has occurred under the Note, Agreement, or any conditions of the Award.

8. This Amendment shall be subject to written consent of the City pursuant to Section 17 of the Note, in form and content satisfactory to the Mayor or City Administrator.

9. Except as modified by this Amendment, all representations, warranties, terms and conditions of the Note, Agreement, or any other documents, instruments, or requirements connected with the Note, Agreement, Award or EDP, are ratified, affirmed and shall remain in full force and effect.

10. This Amendment may be executed in multiple counterparts, each and all of which shall constitute an original and one and the same instrument.

OBLIGOR(S):

CITY CENTRE MUSIC VENUE, LLC, a Nebraska
limited liability company

By: La Vista City Centre LLC, a Nebraska limited
liability company, Manager

By: _____
Christopher L. Erickson, Manager

DATE: _____

ASTRO THEATER, LLC, a Nebraska limited liability
company

By: _____
Jim Johnson, Manager

DATE: _____

CITY CONSENT

The undersigned, on behalf of the City, approves the PROMISSORY NOTE - ECONOMIC DEVELOPMENT PROGRAM AWARD AMENDMENT NO. 1 of City Centre Music Venue, LLC and Astro Theater, LLC, which AMENDMENT NO. 1 shall be incorporated into this CITY CONSENT by this reference.

CITY:

CITY OF LA VISTA, a Nebraska municipal corporation, City

By: _____
Douglas Kindig, Its Mayor

DATE: _____

ATTEST:

By: _____
Pamela A. Buethe, City Clerk, MMC

INTEREST AND PAYMENT SCHEDULE
(as amended by AMENDMENT NO. 1)

The Repayable Portion of the Award advanced and outstanding from time to time shall bear interest (computed on the basis of a 360-day year and actual days elapsed) at the Specified Interest Rate.

Effective on and after the Amendment Effective Date (as defined in Amendment No. 1 to the Note), the "Specified Interest Rate" shall mean:

- a. During the period from the Amendment Effective Date to September 1, 2023, a variable rate of interest per annum equal to the Term SOFR plus 5.00%, as adjusted on each SOFR Adjustment Date.

For purposes of this subsection "a," the following definitions apply:

- i. "SOFR Adjustment Date" means the first day of each calendar month.
- ii. "New York Banking Day" means any date (other than a Saturday or Sunday) on which commercial banks are open for business in New York, New York.
- iii. "SOFR" means the secured overnight financing rate which is published by the Board of Governors of the Federal Reserve System and available at www.newyorkfed.org.
- iv. "Term SOFR" means the one-month forward-looking term rate based on SOFR quoted by City from the Term SOFR Administrator's Website (or other commercially available source providing such quotations as may be selected by City from time to time), which shall be that one-month Term SOFR rate in effect two New York Banking Days prior to the SOFR Adjustment Date, adjusted for any reserve requirement and any subsequent costs arising from a change in government regulation, and reset monthly on each SOFR Adjustment Date; provided that if the Term SOFR rate is not published on such New York Banking Day due to a holiday or other circumstance that City deems in its sole discretion to be temporary, the applicable Term SOFR rate shall be the Term SOFR rate last published prior to such New York Banking Day. If City has determined in its sole discretion that (i) the administrator of Term SOFR, or any relevant agency or authority for such administrator of Term SOFR (or any substitute index which replaces Term SOFR (Term SOFR or such replacement, the "Benchmark")), has announced that such Benchmark will no longer be provided, (ii) any relevant agency or authority has announced that such Benchmark is no longer representative, or (iii) any similar circumstance exists such that such Benchmark has become permanently unavailable or ceased to exist, City will (x) replace such Benchmark with a replacement rate or (y) if any such circumstance applies to fewer than all tenors of such Benchmark used for determining an interest period hereunder, discontinue the availability of the affected interest periods. In connection with the selection and implementation of any such replacement rate, City may make any technical, administrative or operational changes that City decides may be appropriate to reflect the adoption and implementation of such replacement rate. City does not warrant or accept any responsibility for the administration or submission of, or any other matter related to, Term SOFR or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation whether any such alternative, successor or replacement rate will have the same value as, or be economically equivalent to, Term SOFR

- v. “Term SOFR Administrator’s Website” means the website or any successor source for Term SOFR identified by CME Group Benchmark Administration Ltd. (or a successor administrator of Term SOFR).
- b. From and after September 1, 2023 (“Rate Reset Date”) until the Due Date, the fixed per annum rate equal to the Three-Year Treasury Rate on September 1, 2023, as adjusted on the Three-Year Treasury Rate Adjustment Date, plus 4.25%.

For purposes of this subsection “b,” the following definitions apply:

- i. “Three-Year Treasury Rate” means the most recent rate per annum applicable to U.S. Treasury constant maturities 3-year as posted in the Federal Reserve Statistical Release H.15 (daily rates) at: www.federalreserve.gov/Releases/H15/Update/ (or if not posted on such website, as reported by any service selected by City).
- ii. “Three-Year Treasury Rate Adjustment Date” means March 1, 2027.

Before the Amendment Effective Date, “Specified Interest Rate” shall have the meaning set forth in Exhibit “2” of the Note as originally executed by Obligor(s) on August 30, 2021 and September 3, 2021.

Obligor(s) shall pay to the City interest only on the first day of each month, beginning October 1, 2021, on amounts advanced and outstanding from time to time on the Repayable Portion of the Award from the date of this Note to the earlier of (i) 12 months after the date of a certificate of occupancy for the project financed by this Note, or (ii) March 1, 2027 (such date being the "Amortization Commencement Date").

Commencing on the Amortization Commencement Date and continuing on the first day of each calendar month thereafter, aggregate level monthly installments of principal and interest shall be paid based on a 24 year amortization and 288 monthly payments of principal and interest. Notwithstanding the foregoing, a final installment representing the entire unpaid principal balance of the Repayable Portion of the Award, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Due Date (August 31, 2029). On the Amortization Commencement Date and Rate Reset Date, an amortization schedule shall be prepared by the City and provided to Obligor(s).

User: mgustafson

DB: La Vista

COUNCIL REVIEWED

| Check # | Check Date | Vendor Name | Amount | Voided |
|---------|------------|-------------------------------------|--------------|--------|
| 2275(E) | 11/30/2022 | AMERICAN HERITAGE LIFE INSURANCE CO | 1,161.86 | N |
| 2276(E) | 11/30/2022 | DEARBORN NATIONAL LIFE INSURANCE CO | 1,271.00 | N |
| 2277(E) | 11/30/2022 | DEARBORN NATIONAL LIFE INSURANCE CO | 6,468.01 | N |
| 2278(E) | 11/30/2022 | LINCOLN NATIONAL LIFE INS CO | 6,417.10 | N |
| 2279(E) | 11/30/2022 | MEDICA INSURANCE COMPANY | 111,074.95 | N |
| 2280(E) | 11/30/2022 | METLIFE | 1,047.08 | N |
| 2281(E) | 11/30/2022 | MID-AMERICAN BENEFITS INC | 611.00 | N |
| 2282(E) | 12/05/2022 | US BANK NATIONAL ASSOCIATION | 22,471.73 | N |
| 2302(A) | 12/07/2022 | CITY OF PAPILLION - MFO | 240,674.00 | N |
| 138482 | 12/07/2022 | ALFRED BENESCH & COMPANY | 11,735.13 | N |
| 138483 | 12/07/2022 | BRIAN SMILES | 1,200.00 | N |
| 138484 | 12/07/2022 | KINDIG, DOUGLAS | 286.13 | N |
| 138485 | 12/07/2022 | MACKIE CONSTRUCTION | 368,080.23 | N |
| 138486 | 12/07/2022 | MAPA-METRO AREA PLANNING AGENCY | 21,987.00 | N |
| 138487 | 12/07/2022 | OLSSON, INC. | 7,175.50 | N |
| 138488 | 12/07/2022 | RDG PLANNING & DESIGN | 21,962.00 | N |
| 138489 | 12/07/2022 | SAMPSON CONSTRUCTION CO., INC | 1,163,377.00 | N |
| 138490 | 12/07/2022 | SARPY COUNTY TREASURER | 72.43 | N |
| 138491 | 12/07/2022 | STATE OF NE DEPT OF TRANSPORTATION | 167,246.13 | N |
| 2291(E) | 12/20/2022 | ACTIVE NETWORK LLC | 113.94 | N |
| 2292(E) | 12/20/2022 | BLACK HILLS ENERGY | 5,997.09 | N |
| 2293(E) | 12/20/2022 | CENTURY LINK/LUMEN | 189.05 | N |
| 2294(E) | 12/20/2022 | ESSENTIAL SCREENS | 157.78 | N |
| 2295(E) | 12/20/2022 | FNIC | 6,730.75 | N |
| 2296(E) | 12/20/2022 | GREAT PLAINS COMMUNICATION | 777.60 | N |
| 2297(E) | 12/20/2022 | MID-AMERICAN BENEFITS INC | 845.45 | N |
| 2298(E) | 12/20/2022 | MID-AMERICAN BENEFITS INC | 6,920.53 | N |
| 2299(E) | 12/20/2022 | NE DEPT OF REVENUE-SALES TAX | 42.63 | N |
| 2300(E) | 12/20/2022 | PAYROLL MAXX | 414,919.97 | N |
| 2301(E) | 12/20/2022 | ROBERT HALF | 6,103.05 | N |
| 138492 | 12/20/2022 | ACTION BATTERIES UNLTD INC | 497.10 | N |
| 138493 | 12/20/2022 | AKRS EQUIPMENT SOLUTIONS, INC. | 1,063.87 | N |
| 138494 | 12/20/2022 | ALTEC INDUSTRIES INCORPORATED | 241.84 | N |
| 138495 | 12/20/2022 | AMAZON CAPITAL SERVICES, INC. | 2,268.54 | N |
| 138496 | 12/20/2022 | AMERICA'S FENCE STORE INC | 56.22 | N |
| 138497 | 12/20/2022 | ARNOLD MOTOR SUPPLY | 1,386.25 | N |
| 138498 | 12/20/2022 | ASPEN EQUIPMENT COMPANY | 318.75 | N |
| 138499 | 12/20/2022 | BIG RED LOCKSMITHS | 50.00 | N |
| 138500 | 12/20/2022 | BOBCAT OF OMAHA | 508.96 | N |
| 138501 | 12/20/2022 | BRITE IDEAS DECORATING | 769.50 | N |
| 138502 | 12/20/2022 | BRODERSEN, CALE | 86.19 | N |
| 138503 | 12/20/2022 | CINTAS CORPORATION NO. 2 | 225.81 | N |
| 138504 | 12/20/2022 | COMP CHOICE INC | 1,625.07 | N |
| 138505 | 12/20/2022 | CORNHUSKER INTL TRUCKS INC | 1,119.46 | N |
| 138506 | 12/20/2022 | COX COMMUNICATIONS, INC. | 297.00 | N |
| 138507 | 12/20/2022 | CULLIGAN OF OMAHA | 119.90 | N |
| 138508 | 12/20/2022 | DEFIANCE HARLEY-DAVIDSON | 185.99 | N |

User: mgustafson

DB: La Vista

COUNCIL REVIEWED

| Check # | Check Date | Vendor Name | Amount | Voided |
|---------|------------|------------------------------------|-----------|--------|
| 138509 | 12/20/2022 | DOG WASTE DEPOT | 87.98 | N |
| 138510 | 12/20/2022 | ECHO GROUP INCORPORATED | 22.30 | N |
| 138511 | 12/20/2022 | EYMAN PLUMBING INC | 924.35 | N |
| 138512 | 12/20/2022 | FASTENAL COMPANY | 415.67 | N |
| 138513 | 12/20/2022 | FERRELLGAS | 199.00 | N |
| 138514 | 12/20/2022 | FITZGERALD SCHORR BARMETTLER | 22,762.10 | N |
| 138515 | 12/20/2022 | GENERAL FIRE & SAFETY EQUIP CO | 437.50 | N |
| 138516 | 12/20/2022 | GENUINE PARTS COMPANY-OMAHA | 355.89 | N |
| 138517 | 12/20/2022 | HEARTLAND PNEUMATIC | 682.50 | N |
| 138518 | 12/20/2022 | HGM ASSOCIATES, INC. | 778.10 | N |
| 138519 | 12/20/2022 | HOBBY LOBBY STORES INC | 308.75 | N |
| 138520 | 12/20/2022 | HOME DEPOT CREDIT SERVICES | 401.88 | N |
| 138521 | 12/20/2022 | HUNTEL COMMUNICATIONS, INC | 1,899.13 | N |
| 138522 | 12/20/2022 | HY-VEE INC | 65.00 | N |
| 138523 | 12/20/2022 | INLAND TRUCK PARTS & SERVICE | 1,453.97 | N |
| 138524 | 12/20/2022 | J & J SMALL ENGINE SERVICE | 125.61 | N |
| 138525 | 12/20/2022 | JENSEN TIRE AND AUTO #11 | 95.00 | N |
| 138526 | 12/20/2022 | JOHNSON HARDWARE COMPANY LLC | 12.88 | N |
| 138527 | 12/20/2022 | JOHNSTONE SUPPLY CO | 18.34 | N |
| 138528 | 12/20/2022 | K ELECTRIC | 1,124.87 | N |
| 138529 | 12/20/2022 | KOSKE, NORA | 10.35 | N |
| 138530 | 12/20/2022 | KRIHA FLUID POWER CO INC | 47.69 | N |
| 138531 | 12/20/2022 | LABRIE, DONALD P | 975.00 | N |
| 138532 | 12/20/2022 | LARSEN SUPPLY COMPANY | 375.30 | N |
| 138533 | 12/20/2022 | LOWE'S CREDIT SERVICES | 644.16 | N |
| 138534 | 12/20/2022 | MATHESON TRI-GAS INC | 159.64 | N |
| 138535 | 12/20/2022 | MENARDS-RALSTON | 412.52 | N |
| 138536 | 12/20/2022 | METROPOLITAN CHIEFS ASSOCIATION | 75.00 | N |
| 138537 | 12/20/2022 | MICHAEL TODD AND COMPANY INC | 1,601.12 | N |
| 138538 | 12/20/2022 | MILLARD METAL SERVICES INC | 470.00 | N |
| 138539 | 12/20/2022 | MOTOROLA SOLUTIONS INC | 24,548.80 | N |
| 138540 | 12/20/2022 | MSC INDUSTRIAL SUPPLY CO | 89.28 | N |
| 138541 | 12/20/2022 | NEBRASKA IOWA DOOR SERVICES, INC. | 735.00 | N |
| 138542 | 12/20/2022 | NEBRASKA LAW ENFORCEMENT | 20.20 | N |
| 138543 | 12/20/2022 | O'REILLY AUTO PARTS | 1,342.66 | N |
| 138544 | 12/20/2022 | OFFICE DEPOT INC | 523.62 | N |
| 138545 | 12/20/2022 | ONE CALL CONCEPTS INC | 193.80 | N |
| 138546 | 12/20/2022 | PAPILLION SANITATION | 440.58 | N |
| 138547 | 12/20/2022 | PERMITTECHNATION | 25.00 | N |
| 138548 | 12/20/2022 | PREDATOR CUSTOM TRAILER | 10.50 | N |
| 138549 | 12/20/2022 | REACH SPORTS MARKETING GROUP, INC. | 350.00 | N |
| 138550 | 12/20/2022 | REGAL AWARDS INC. | 59.90 | N |
| 138551 | 12/20/2022 | RIVER CITY RECYCLING | 188.70 | N |
| 138552 | 12/20/2022 | ROBERT T. HENNRICH | 1,128.00 | N |
| 138553 | 12/20/2022 | RTG BUILDING SERVICES INC | 6,665.00 | N |
| 138554 | 12/20/2022 | SCHUTTLER, JEREMY | 119.50 | N |
| 138555 | 12/20/2022 | SITE ONE LANDSCAPE SUPPLY LLC | 307.50 | N |

User: mgustafson

DB: La Vista

COUNCIL REVIEWED

| Check # | Check Date | Vendor Name | Amount | Voided |
|---------|----------------|-------------------------------------|----------------|--------|
| 138556 | 12/20/2022 | SOLBERG, CHRISTOPHER | 86.71 | N |
| 138557 | 12/20/2022 | SOUTH, RYAN | 310.50 | N |
| 138558 | 12/20/2022 | SOUTHERN UNIFORM AND TACTICAL, INC. | 523.78 | N |
| 138559 | 12/20/2022 | TORNADO WASH LLC | 217.00 | N |
| 138560 | 12/20/2022 | TOTAL MARKETING INC | 29.00 | N |
| 138561 | 12/20/2022 | TRANS UNION RISK AND ALT. DATA SOL. | 75.00 | N |
| 138562 | 12/20/2022 | TRUCK CENTER COMPANIES | 225.07 | N |
| 138563 | 12/20/2022 | UNITE PRIVATE NETWORKS LLC | 4,400.00 | N |
| 138564 | 12/20/2022 | UNITED PARCEL SERVICE | 10.93 | N |
| 138565 | 12/20/2022 | VERIZON WIRELESS | 18.02 | N |
| 138566 | 12/20/2022 | VERIZON WIRELESS | 365.61 | N |
| 138567 | 12/20/2022 | VOIANCE LANGUAGE SERVICES, LLC | 25.00 | N |
| 138568 | 12/20/2022 | WALMART COMMUNITY BRC | 916.33 | N |
| 138569 | 12/20/2022 | WESTLAKE HARDWARE INC NE-022 | 1,243.97 | N |
| 138570 | 12/20/2022 | WESTLAKE HARDWARE INC NE-022 | 1,955.02 | N |
| 138571 | 12/20/2022 | WHITE CAP LP | 67.44 | N |
| 138572 | 12/20/2022 | WOODHOUSE FORD-BLAIR | 2,192.02 | N |
| 111 | CHECKS PRINTED | TOTAL CLAIM AMOUNT: | \$2,694,287.61 | 0 |

| Check # | Check Date | Vendor Name | Amount | Voided |
|---------|------------|-------------|--------|--------|
|---------|------------|-------------|--------|--------|

APPROVED BY COUNCIL MEMBERS ON: 12/20/2022

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|--|---|---|
| COMPREHENSIVE PLAN AMENDMENTS – FUTURE LAND USE PLAN & FUTURE LAND USE MAP | RESOLUTION ◆ ORDINANCE RECEIVE/FILE | BRUCE FOUNTAIN COMMUNITY DEVELOPMENT DIRECTOR |

SYNOPSIS

A public hearing has been scheduled and an ordinance prepared to amend La Vista’s Comprehensive Plan to amend Chapter 3, Section 13 (Future Land Use Plan and associated Future Land Use Map), and adopt the “La Vista Land Use Plan” as Appendix H.

FISCAL IMPACT

None.

RECOMMENDATION

Approval.

BACKGROUND

La Vista’s *Look Out La Vista – City of La Vista Comprehensive Plan* was adopted in 2018. This plan set forth a vision for the creation of a community that is “memorable, inspirational, and appealing to generations and rooted in a strong vision.”

While the Future Land Use section of the Comprehensive Plan identified the existing mix of land uses and provided data such as percentages of various land uses, it did not delve into appropriate land use in light of La Vista’s landlocked situation or provide data as to whether there is a good balance of various land uses within the City. Additionally, since adoption of the plan, the nation has witnessed sizeable shifts in land use demand due to the global pandemic and the growing impact of online sales. Although some of the shifts may be temporary, others may have longer, farther-reaching impacts on the overall development of La Vista.

In March of 2022, La Vista contracted with RDG Planning and Design, in partnership with Gruen & Gruen Associates, to prepare the La Vista Land Use Plan and Market Study to identify land use types that reflect the goals of the City’s Comprehensive Plan and ultimately provide a proper mix of land uses relative to the current economic conditions and market trends. Their work in preparing the Land Use Plan included on-going consultation with a staff technical committee, interviews with numerous key stakeholders and subject matter experts including the City Council and Planning Commission, and a design workshop which created development ideas and scenarios for some key “opportunity sites.” The study also reflects the understanding that La Vista’s growth area is limited and identifies proper land use choices that will be needed for long-term economic and community sustainability. Priorities for potential future redevelopment areas are also identified.

A Joint Workshop of the City Council and Planning Commission was held on November 14th, 2022. Amy Haase, of RDG Planning and Design, presented an overview of the draft Land Use Plan which included the following major takeaways:

- Visitors and workers account for over \$100 million in retail spending annually in La Vista.
- Vacancy rates in both industrial and office spaces remain very low.
- La Vista's household sizes have gotten smaller. In 2000 the average household size was 2.6, in 2020 it had dropped to 2.3
- Over 49% of owner-occupied households are over the age of 55.
- 3,170 apartment units exist or are under construction
- La Vista has many long-term renters.
- Housing production has focused on two product types – Single-family detached and larger scale, suburban multi-family which limits options for current and future residents
- Hospitality continues to be an opportunity for the larger region. Hotel stays have steadily grown over the last year.
- Strong housing demand regionally can be captured by innovative housing types.
- Empty-nester and retirees are a prime housing market for La Vista.
- Growing the number of households regionally, and the average household size, will create demand for new commercial uses in undeveloped and redeveloped mixed-use areas.

As discussed at the Joint Workshop meeting, the Plan recognizes existing land use patterns and establishes an intensity-based approach for developing or redeveloping areas. Each land use category has unique requirements for the following attributes: types of allowable uses, intensity or density, compatibility (transitions between uses), and form, or design.

The La Vista Planning Commission held a public hearing on December 6, 2022 and voted unanimously to recommend approval of the proposed amendments to the City's Comprehensive Plan including a revised Future Land Use Plan and a revised Future Land Use Map.

A copy of the ordinance, revised Future Land Use Plan Section of the La Vista Comprehensive Plan and associated Future Land Use Map (Chapter 3, Section 13), and the proposed Appendix H to La Vista's Comprehensive Plan (the "La Vista Land Use Plan") are attached.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND SECTION 1 ~~OF~~ ORDINANCE NO. 1449 CODIFIED IN MUNICIPAL CODE SECTIONS 151.01 AND 151.02 TO UPDATE THE COMPREHENSIVE DEVELOPMENT PLAN AND RELATED FUTURE LAND USE MAP; TO REPEAL SECTION 1 OF ORDINANCE NO. 1449 CODIFIED IN MUNICIPAL CODE SECTIONS 151.01 AND 151.02 AND ANY OTHER CONFLICTING ORDINANCES AS PREVIOUSLY ENACTED, TO PROVIDE FOR SEVERABILITY AND TO PROVIDE FOR THE EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AS FOLLOWS:

WHEREAS, Ordinance No. 1449 dated April 5, 2022 amended the City of La Vista Comprehensive Plan, Updated December 2018, as codified in Municipal Code Sections 151.01 and 151.02 and previously amended, and adopted the ~~City of La Vista~~ Comprehensive Plan, Updated December 2018, as amended April 5, 2022 ("La Vista Comprehensive Plan"); and

WHEREAS, the Mayor and City Council desire to amend Ordinance No. 1449 and the La Vista Comprehensive Plan and adopt the City of La Vista Comprehensive Plan, Updated December 2018, as amended December 20, 2022 ("La Vista Comprehensive Plan, Updated 2018, as amended December 20, 2022").

NOW THEREFORE, the following are approved:

SECTION 1. Amendment of Section 1 Ordinance No. 1449 codified in Municipal Code Sections 151.01 and 151.02. Section 1 of Ordinance No. 1449 codified in Municipal Code Sections 151.01 and 151.02 is hereby amended, repealed and replaced in its entirety with the following:

§ 151.01 COMPREHENSIVE PLAN ADOPTED. In order to accommodate anticipated long-range future growth, the City of La Vista Comprehensive Plan, Updated December 2018, as amended December 20, 2022, and including and incorporating therein, without limitation, the Redevelopment Plan for the 84th Street Redevelopment Area, Amendment No. 1 to the Redevelopment Plan for the 84th Street Redevelopment Area, and Amendment No. 2 to the Redevelopment Plan for the 84th Street Redevelopment Area, as Appendices D, E-1 and E-2, respectively, and further including and incorporating therein, without limitation, all other Appendices A, B, C, F, G, and H as presented and on file with the City Clerk and as may from time to time be amended, is adopted as and shall constitute the comprehensive development plan of the City of La Vista and general plan for development of the City as a whole. Three copies of the adopted plan and any amendments thereto shall be kept with enacting or amending ordinances on file with the City Clerk and available for inspection by any member of the public during office hours.

§ 151.02 ADOPTION OF OFFICIAL LA VISTA COMPREHENSIVE PLAN UPDATE. The City of La Vista Comprehensive Plan, Updated December 2018, as amended December 20, 2022, received and recommended by the La Vista Planning Commission, and including and incorporating therein, without limitation, the Redevelopment Plan for the 84th Street Redevelopment Area, Amendment No,

1 to the Redevelopment Plan for the 84th Street Redevelopment Area and Amendment No, 2 to the Redevelopment Plan for the 84th Street Redevelopment Area, as Appendices D, E-1 and E-2, respectively, and further including and incorporating therein, without limitation, all other Appendices A, B, C, F, G, and H, as presented and on file with the City Clerk and as may from time to time be amended, is hereby adopted and shall constitute the official governing comprehensive development plan of the City, general plan for development of the city as a whole, and the successor and replacement of the City of La Vista Comprehensive Plan, Updated December 2018, as amended April 5, 2022, or any other previously adopted comprehensive development plan or amendment thereto."

SECTION 2. Recitals. Recitals at the beginning of this Ordinance and all documents, exhibits and appendices referenced in this Ordinance are incorporated into this Ordinance by such reference as if fully set forth herein.

SECTION 3. Repeal. Section 1 of Ordinance No. 1449 codified in Municipal Code Sections 151.01 and 151.02, and all other ordinances and any parts of ordinances as previously enacted that are in conflict with this ordinance or any part hereof are hereby repealed.

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

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in book or pamphlet form or otherwise in accordance with applicable law.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER, 2022.

CITY OF LA VISTA,

Douglas Kindig, Mayor

Attest:

Pamela A. Buethe, ~~C~~MMC
City Clerk

K:\APPS\City Hall\ORDINANCES\Comprehensive Plan Amendment (FLUM) -
Land Use Study 12.20.2022 Redlined.Docx
I:\Community Development\Planning Department\City Council\Ordinances-Resolutions\2022\Comprehensive Plan Amendment (FLUM) - Land Use Study.docx

**Revised Future Land Use Plan Section &
Future Land Use Map in
La Vista's Comprehensive Plan
"Look Out La Vista"**

Chapter 3 – Section 13



FUTURE LAND USE PLAN

The Future Land Use Plan represents the long-term vision for growth based on the character and location of existing development and the community's desired future. The plan maximizes relationships among residential, commercial, industrial, public facilities, and parks and recreation amenities. To protect La Vista's high quality of life, the plan proposes a diversified mix of uses that is supported by the market and responsive to changes in demographics and economic opportunities.

LAND USE PLAN VS. ZONING

The Future Land Use Map and descriptions in this chapter, as well as the goals and policy statements, help direct development patterns and infrastructure improvements citywide to achieve the vision.

Zoning refers to land use entitlements and requirements that regulate appropriate use, bulk, height, density, and other characteristics appropriate for a specific site. The general recommendations of the future land use plan form the basis for specific zoning and land development code regulations.

La Vista Land Use Plan

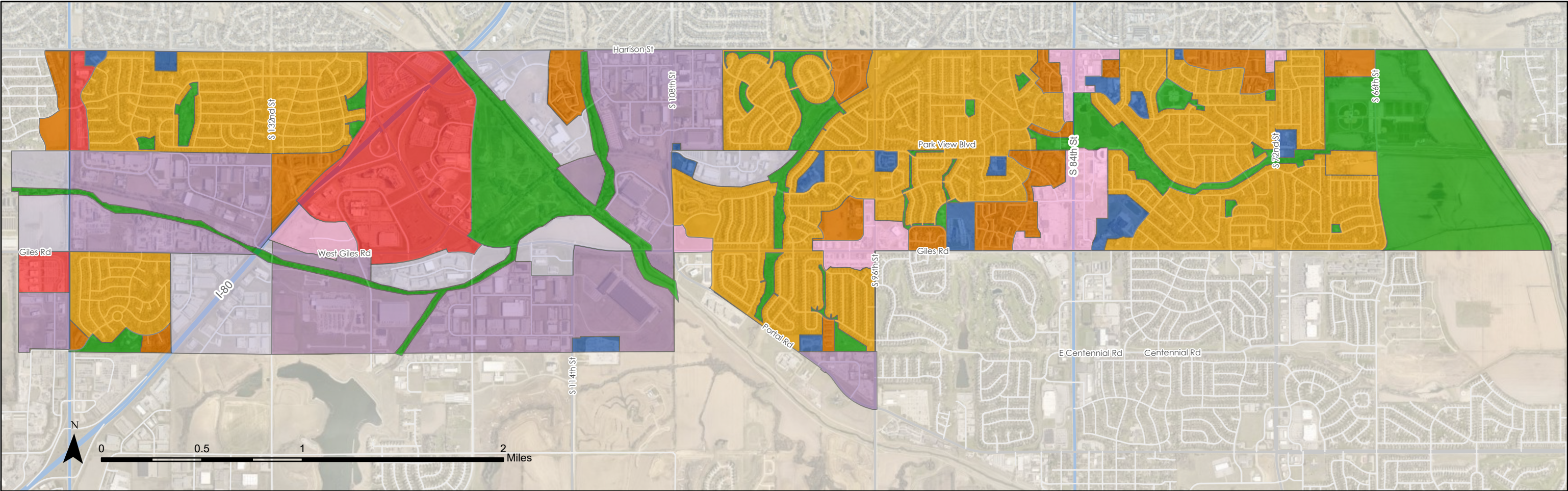
In March of 2022, La Vista contracted with RDG Planning and Design, in partnership with Gruen & Gruen Associates, to prepare a Land Use Plan and Market Study to identify land use types that reflect the goals of the City's Comprehensive Plan and ultimately provide a proper mix of land uses relative to the current economic conditions and market trends.

Their work in preparing the Land Use Plan included on-going consultation with a staff technical committee, interviews with numerous key stakeholders and subject matter experts including the City Council and Planning Commission, and a design workshop which created development ideas and scenarios for some key "opportunity sites." The study also reflects the understanding that La Vista's growth area is limited and identifies proper land use choices that will be needed for long-term economic and community sustainability. Priorities for potential future redevelopment areas are also identified.







This revised land use plan and associated Future Land Use Map were reviewed and Adopted by the La Vista City Council on _____. The complete La Vista Land Use Plan is incorporated into the La Vista Comprehensive Plan and is attached as Appendix H.



Future Land Use Map



LEGEND

- | | |
|---|--|
|  Business Park |  Regional Commercial |
|  Industrial |  Urban High Intensity Residential |
|  Park & Open Space |  Urban Medium Intensity Residential |
|  Public |  Urban Commercial |

Amended: _____

THIS MAP WAS PREPARED USING INFORMATION FROM RECORD DRAWINGS SUPPLIED BY APPLICABLE CITY, COUNTY, STATE, FEDERAL, OR PUBLIC OR PRIVATE ENTITIES. THE ACCURACY OF THIS MAP CAN NOT BE GUARANTEED. THIS IS NOT A SCALED PLAT.

LAND USE CATEGORIES

The La Vista Land Use Plan utilizes an intensity-based approach to land use designation. Descriptions for the various land use categories in the plan are listed below. For more information on each category, including specifics on uses, form, compatibility, suggested intensity, and potential zoning, please refer to the complete La Vista Land Use Plan attached in the appendices.

URBAN MEDIUM INTENSITY RESIDENTIAL (UM)

Neighborhoods with medium-density housing and easily accessed neighborhood commercial services. As compared to denser areas, UM has more space and separation of uses, with farther distances between destinations and fewer shared amenities.

URBAN HIGH INTENSITY RESIDENTIAL (UH)

These areas improve economic performance and opportunities for social interaction by locating diverse and complementary uses in close proximity. Higher-density mix of housing including multifamily, commercial, office, and service uses.

REGIONAL COMMERCIAL (RC)

Areas characterized by major community and regional commercial development that are both large in scale and have high traffic impact. Typically located near intersections of arterial streets.

URBAN COMMERCIAL (UC)

These areas improve economic performance and opportunities for social interaction by locating diverse and complementary uses in close proximity. In La Vista, many of these areas are developed and have opportunities for redevelopment. Redevelopment should create integrated uses and address preferences for walkable urban areas.

BUSINESS PARK (BP)

Areas preserved for larger business development are essential to the region's economic stability and future growth. These areas maximize clustering for specialization, synergy, transportation efficiency, and knowledge exchange.

INDUSTRIAL (I)

Areas intended to accommodate industrial uses. These areas acknowledge existing uses and protect areas to maximize clustering for specialization, synergy, and transportation efficiency. Uses may be difficult to integrate with less intensive uses due to negative impacts from heavy traffic, noise, or odors.

LAND USE CATEGORIES

PUBLIC (P)

To provide space for educational, institutional, assembly, and other public uses, including hospitals, major campuses, cemeteries, and major utilities.

PARK & OPEN SPACE (PO)

Areas intended to remain undeveloped and natural or recreational in character.

Complete La Vista Land Use Plan
To be adopted as Appendix H in La Vista's
Comprehensive Plan "Look Out La Vista"

LA VISTA

LAND USE PLAN

DECEMBER 9, 2022

RDg...
PLANNING • DESIGN







TABLE OF CONTENTS

| | | | |
|--------------------------|-----------|--------------------------|-----------|
| EXECUTIVE SUMMARY | 4 | MARKET ANALYSIS | 18 |
| | | Industrial & Office | 21 |
| | | Retail | 23 |
| | | Hospitality | 24 |
| | | Housing | 25 |
| | | Land Use | 26 |
| CURRENT STATE | 10 | | |
| Document Review | 12 | | |
| Demographic | 14 | | |
| Economic | 15 | | |
| | | FUTURE LAND USE | 28 |
| | | Comprehensive Plan Goals | 30 |
| | | Development Principles | 31 |
| | | Land Use Plan | 33 |
| | | Opportunity Areas | 44 |
| | | Conclusions & Next Steps | 57 |



Vivare
APARTMENTS
NOW
LEASING
www.vivare.com

Vivare
LEASING OFFICE
STRAIGHT
AHEAD





ACKNOWLEDGEMENTS

The La Vista Land Use and Market Analysis would not be possible without the contribution of the many people who shared their expertise and time with the planning team.

MAYOR AND CITY COUNCIL

Douglas Kindig
Mayor

Kim Thomas, Ward I

Terrilyn Quick, Ward I

Ron Sheehan, Ward II

Josh Frey, Ward II

Alan Ronan, Ward III

Deb Hale, Ward III

Kelly Sell, Ward IV

Jim Frederick, Ward IV

STAFF COMMITTEE

Brenda Gunn
City Administrator

Rita Ramirez
*Assistant City
Administrator/Director
Community Services*

Bruce Fountain
*Community Development
Director*

Chris Solberg
*Deputy Community
Development Director*

Cale Brodersen
Assistant Planner

Pat Dowse
City Engineer

Jason Allen
Park Superintendent

PLANNING COMMISSION

Harold Sargus
Chair

Kathleen Alexander
Vice Chair

Jason Dale
Secretary

Michael Circo

Patrick Coghlan

John Gahan

Michael Krzywicki

Gayle Malmquist

Kevin Wetuski

EXECUTIVE SUMMARY

WHY PLAN NOW?

La Vista has changed dramatically over the past 60 years. From a small subdivision to a thriving community of over 16,000 people. Growth will naturally slow for the community as only a limited number of places remain to develop or redevelop. This reality necessitates consideration of what the future of these areas should look like, a process that begins by looking at the opportunities available to the city today and in the longer-term.

In times of growth it is easy to move forward in a rush, but the La Vista Land Use Plan affords community leaders the opportunity to step back and look at the direction in which their community should go. Development can be viewed in a broader picture of what the city should look like, how it should function, and what will make it economically resilient in the future. Having a solid vision for the city provides community leaders with the tools necessary to make sound decisions based on the aspirations of residents.



Over the past nine months input has been gathered from subject matter experts and stakeholders and data gathered to create a land use vision for La Vista. This plan comes at an opportune time and provides a roadmap for how La Vista can position itself for success both today and for generations to come.

CURRENT STATE

La Vista is located in Sarpy County, the fastest growing county in the state. While this creates great opportunities for the city, there are a limited number of places where growth can occur due to municipal boundaries and agreements with other cities. This demands that La Vista creatively leverage the remaining sites to ensure the highest quality of life for residents today and into the future. Key take-aways from the city's current state include:

- **Fewer people are living in each of La Vista's households.** In 2000 the average household size was 2.6, in 2020 it had dropped to 2.3.
- **Over 49% of owner-occupied households are over the age of 55.** In the next decade many of these households will be looking for housing that better fits their stage of life.
- **La Vista has many long-term renters.** La Vista has a slightly higher renter occupancy compared to other metro communities but these residents are committed to the city with over 29% having lived in their unit for more than 8 years and 87% for more than four years.
- **Visitors and workers account for over \$100 million in retail spending annually in La Vista.** Despite this, retail markets are challenged by shifting shopping patterns and regional competition from both north and south of La Vista.
- **Vacancy rates in both industrial and office spaces remain very low.** While businesses are renting or owning office space, many are allowing more remote working which limits demand for larger office spaces and the number of workers physically visiting La Vista on a daily basis.

MARKET ANALYSIS

Market projections are used to understand what changes are likely to occur and how demands in future land use are likely to be impacted.

- **Hospitality** continues to be an opportunity for the larger region. Hotel stays have steadily grown over the last year. La Vista has the opportunity to meet both regional demands for hotel rooms and additional demand from tournaments at the Nebraska MultiSport Complex.
- **Strong housing demand** regionally can be captured by innovative housing types. To protect existing housing products and expand opportunities, new housing development must be innovative to meet an evolving housing market.
- **Industrial flex space** will be in high demand. Low vacancy rates demonstrate La Vista is an appealing destination for businesses. Easy access to the larger metro area adds to this appeal.
- **Empty-nester and retirees** are a prime housing market for La Vista. These households currently have few options if they wish to downsize or find lower-maintenance options. They often remain in their home or leave La Vista. Building for this market and filling existing homes with young families will grow La Vista's population more than building suburban style multi-family or the traditional detached single-family in development and redevelopment areas.
- **Growing the number of households regionally**, and the average household size, will create demand for new commercial uses in undeveloped and redeveloped mixed-use areas.

FUTURE LAND USE PLAN

In recent years planning processes such as Vision 84 and the City Comprehensive Plan have proposed bold land use visions. The purpose of this section is to provide a framework and development principles for how and where development should occur. This is especially important for the city's limited number of undeveloped sites. The policies laid out in this section build upon the market assessment and the city's Comprehensive Plan goals and apply to all parts of the city. More detailed framework is laid out for the remaining undeveloped sites and a limited number of potential redevelopment areas.

LAND USE AND DEVELOPMENT PRINCIPLES

Building off of the Comprehensive Plan goals, the following development principles establish the criteria for land use decisions, and should be applied to all development projects.

- » Land use policies and regulations will create and support balanced neighborhoods
- » Development shall be fiscally responsible
- » Policies and decisions will support appropriate infill development
- » Development will preserve drainage ways and flood zones
- » Development and redevelopment will be built around a continuous transportation system that incorporates all types of transportation
- » Integrate amenities such as open spaces and trails
- » Land use policies and regulations will support diverse housing choices
- » Use public investments to promote desired and appropriate private development
- » Enhance public safety and minimize hazards
- » Make decisions in a transparent and collaborative manner

Land Use Philosophy: An Intensity Based Approach

Contemporary growth in American cities has tended to separate different land uses through zoning. The concept of single-use zoning grew out of a need to separate people's homes from major industries, in order to protect their health. Still today, some uses can produce so much traffic, noise, smells, or other effects that separation remains the most appropriate policy. However, increasingly, mixing compatible, different uses is shown to create more interesting and attractive communities. The La Vista Comprehensive Plan recommends a flexible land use approach that allows mixing of uses or uses that have a similar intensity.

OPPORTUNITY AREAS

La Vista has a limited number of strategic development and redevelopment areas that remain within the city and its jurisdiction. **A short-term outlook on these sites would do a disservice to current and future residents.** The purpose of this section is to examine these strategic areas and provide guidance for development patterns that will **support the Plan's goals and long-term vision.**

In the process of developing this plan and the city's Comprehensive Plan, several themes emerged that required a more detailed exploration of key opportunity areas.

- » La Vista has a finite amount of land to accommodate development demand. The Comprehensive Plan process expressed a strong focus on promoting responsible infill development to make the most of the developable land. La Vista City Centre is an example of the city's patience to promote unique infill that fits within the community's goals rather than a product that can be found anywhere in the metro area.
- » The exceptional pride that residents have originates from the recent memory of La Vista as a pioneering community. The House of 9s and the origins of the city as an affordable family-oriented community is important to many residents. Continued development of unoriginal and commonly found products in the metro region lessens the unique quality and history of the city.
- » The community is committed to improving the quality of life for all its residents and stakeholders. To best serve its population the city recognizes that it must:
 - *Improve the function and value of its older commercial areas*
 - *Offer a variety of housing options for every stage of life*
 - *Focus on building quality places for current and future generations*
 - *Create destinations that attract visitors from a large region*

Many of these themes focus on looking at ways to improve areas of the city through site treatments, development policy, and targeted reinvestment.

There are seven key opportunity areas where the above goals and themes can come to life:

- **Lower Southport West**
- **Brentwood Square**
- **Hillcrest Plaza**
- **108th & Giles**
- **The Original 9's**
- **La Vista Sports Complex**
- **City Centre Environs**

#1

CURRENT STATE

La Vista is located in Sarpy County, the fastest growing county in the state. While this creates great opportunities for the city, there are a limited number of places where growth can occur due to municipal boundaries and agreements with other cities. This demands that La Vista creatively leverage the remaining sites to ensure the highest quality of life for residents today and into the future. Key take-aways from the city's current state include:

- **Fewer people are living in each of La Vista's households.** In 2000 the average household size was 2.6, in 2020 it had dropped to 2.3.
- **Over 49% of owner-occupied households are over the age of 55.** In the next decade many of these households will be looking for housing that better fits their stage of life.
- **La Vista has many long-term renters.** La Vista has a slightly higher renter occupancy compared to other metro communities but these residents are committed to the city with over 29% having lived in their unit for more than 8 years and 87% for more than four years.
- **Visitors and workers account for over \$100 million in retail spending annually in La Vista.** Despite this, retail markets are challenged by shifting shopping patterns and regional competition from both north and south of La Vista.
- **Vacancy rates in both industrial and office spaces remain very low.** While businesses are renting or owning office space, many are allowing more remote working which limits demand for larger office spaces and the number of workers physically visiting La Vista on a daily basis.



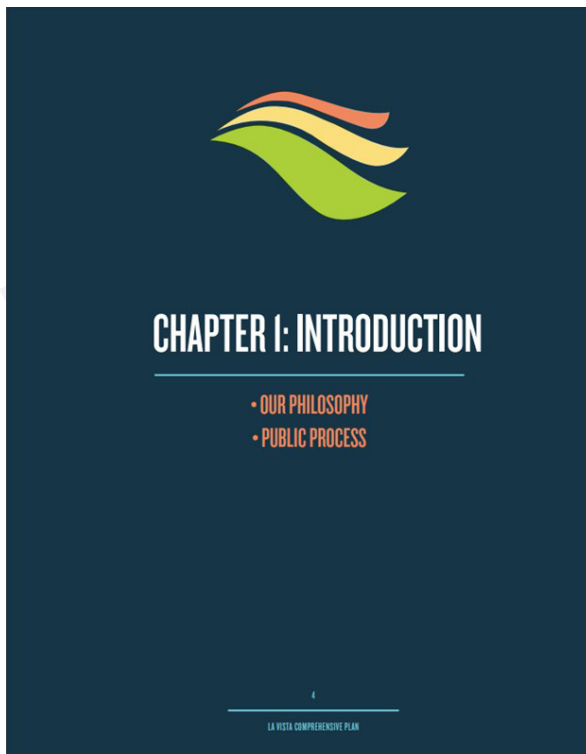
CURRENT STATE

Document Review

The City of La Vista and the surrounding communities have engaged in planning efforts for land use, economic development, and housing to shape La Vista today. Four recent plans and reports highlight various aspects of land use and help inform the La Vista Land Use and Market Analysis.

LA VISTA COMPREHENSIVE PLAN

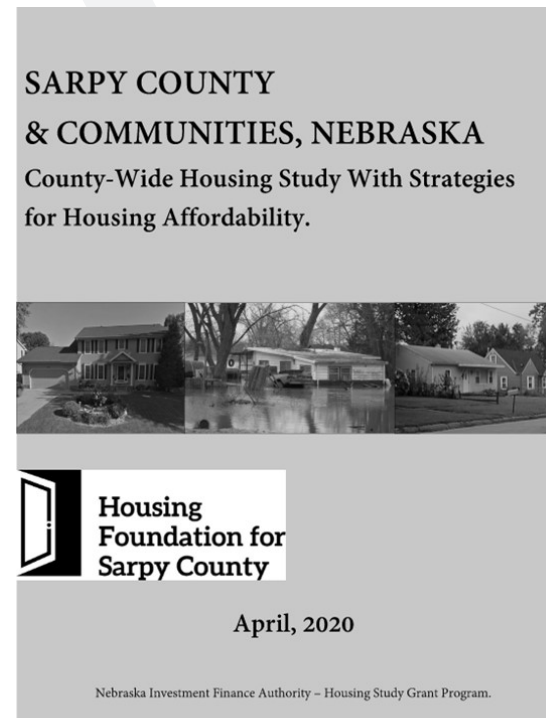
- **Infill & Redevelopment** are prioritized to make efficient use of resources within the city.
- **Population Growth by Annexation** is seen as the primary way the city will grow and community leaders are encouraged to make thoughtful annexation decisions within the 2-mile extraterritorial jurisdiction.
- **Increasing Mixed-Use** to better retain La Vista's quality of life and take advantage of demographic and economic shifts that are favoring more mixed-use development.



SARPY COUNTY & COMMUNITIES, NEBRASKA

County-Wide Housing Study with Strategies for Housing Affordability

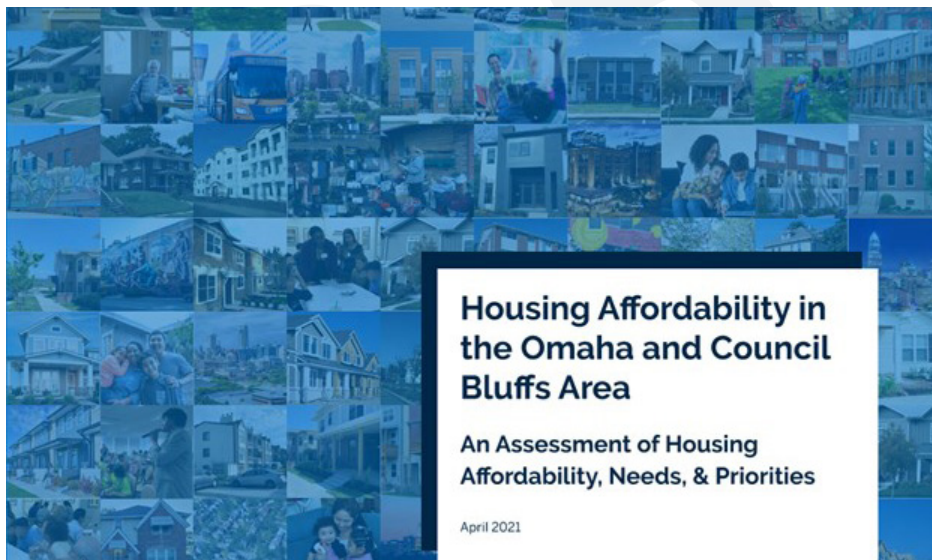
- **4,295 Household Growth** projected by 2025 in Sarpy County.
- **County Wide Low Vacancy** rates results in a shortage of affordable and quality owner and rental units.
- **112 Acres Needed** for new housing development in La Vista, according to Hanna:Keelan Associates housing demand model.



HOUSING AFFORDABILITY IN THE OMAHA AND COUNCIL BLUFFS AREA

This study looked at affordable housing in the Omaha-Council Bluffs metro area containing Sarpy County, Douglas County, and Council Bluffs.

- **25% of Households** pay over a third of their income on housing.
- **An estimated 104,000** gap in affordable housing units could occur by 2040 if no new affordable housing tools are brought online.
- **Current Housing Production** rates fall below projected growth. By 2040 it is estimated the Omaha-Council Bluffs area will have growth that demands 80,000 new units but only 66,000 units will be created.
- **Varied Housing Types** are needed to meet the diversity of incomes, lifestyles, abilities, and lifestyles within the region.
- **New Financing Tools** will be needed to promote new affordable units and help maintain current affordable housing stock.

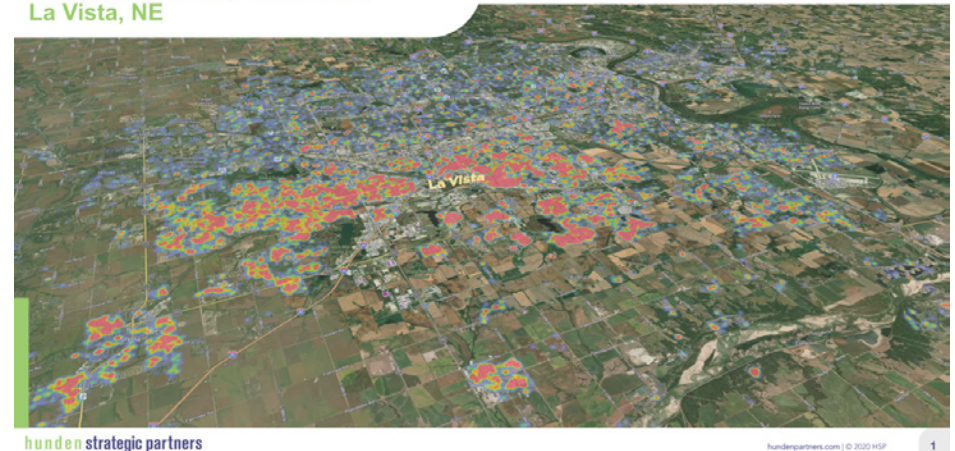


FIVE DISTRICTS IN 2019 AND 2021 IN-CITY VS. OUT-OF-CITY VISITOR RATIO

This study looks at the location people were from who visited five major commercial districts in La Vista. The study also looked at the amount of time people spent at each destination. The five locations were Papio Valley Business park & Brook Valley II Business Park; Southport Retail; Brook Valley BP, Oakdale Park, Val Verde, & Harrison Hills; 84th Street (north of Giles Road), and 96th & Giles Road.

- **Majority of Visitors are Non-Residents**, over 90% of visitors to all five locations in both 2019 and 2021 came from outside of La Vista.
- **60% or More** of visitors are from 10 miles away or less. This means La Vista is a regional center for commercial spending.
- **Southport is the Widest Attractor**, 24% of visitors traveling over 50 miles and 11% of visitors traveling over 250 miles.

Five Districts in 2019 and 2021 In-City vs. Out-of-City Visitor Ratio La Vista, NE



Demographic

Future land use is built off the current land use, demographic, and economic realities of La Vista.

POPULATION CHANGE

La Vista has continued to grow but the rate has fluctuated throughout the years, as seen in Table 1.1. The vast majority of La Vista's population growth in the last twenty years took place between 2000 and 2010. Like most Omaha metro communities, growth pre-2010 occurred just outside city limits and over time was absorbed by the city through annexation. For La Vista and its extra-territorial jurisdiction new growth will have to come from remaining vacant parcels and redevelopment of older areas. This development will need to attract a wider range of households that includes younger family households.

Table 1.1: Historic Population Change 1960 - 2020

| | Population | Change from Previous Census | Annual Growth Rate |
|-----------|------------|-----------------------------|--------------------|
| 1970 | 4,858 | | |
| 1980 | 9,588 | 4,730 | 7.0% |
| 1990 | 9,840 | 252 | 0.3% |
| 2000 | 11,699 | 1,859 | 1.7% |
| 2010 | 15,758 | 4,059 | 3.0% |
| 2020 | 16,746 | 988 | 0.6% |
| 2000-2020 | | 5,047 | 1.8% |

SOURCE: U.S. BUREAU OF THE CENSUS; RDG PLANNING & DESIGN

AGE COHORTS

The size and change in age cohorts can identify existing and future needs in land use, housing, employment, and other amenities.

- **60+ Age Cohorts** have grown since 2010 in La Vista as the baby boomer generation ages.
 - » Over 49% of owner-occupied households are over the age of 55.
 - » The 60+ age cohort shift might be looking to move from the houses where they raised their children to lower maintenance options with strong access to amenities.
 - » The lack of diversity in La Vista's housing stock could be creating a lack of movement and turn over in the market place. As La Vista's population has aged, there might not be the lower maintenance housing options available, resulting in residents staying in their houses and causing families to look elsewhere in the metro area.
- **Under 18 Years** has seen a decline in population since 2010.
 - » This may reflect the decline in 35 to 50 year olds (parents) and extended time taken before choosing to start a family for those under 35.

Table 1.2: Age of Householder, Owner-Occupied

| | Number of Households | Percent |
|-------------------|----------------------|---------|
| 15 to 24 years | 63 | 2% |
| 25 to 34 years | 558 | 14% |
| 35 to 44 years | 548 | 14% |
| 45 to 54 years | 780 | 20% |
| 55 to 59 years | 485 | 13% |
| 60 to 64 years | 410 | 11% |
| 65 to 74 years | 654 | 17% |
| 75 to 84 years | 290 | 8% |
| 85 years and over | 63 | 2% |
| Total Households | 3,851 | |

SOURCE: U.S. BUREAU OF THE CENSUS

Economic

HOUSING

Residential areas make up a significant portion of land use in La Vista and these neighborhoods are often the building blocks of the community. This could not be more true for La Vista, a community that started as an affordable housing development.

- **Renter and Owner** occupied units have remained relatively stable over the past 10 years.
- **Low Vacancy Rates** have been maintained since 2010. This low vacancy rate indicates a strong demand for housing in La Vista that has not been offset by new construction.
- **Rental Occupancy is Higher** than many other metro communities, but many of those residents have called La Vista home for many years. Many households remain in rentals due to financing barriers to ownership but also because there is not an ownership option that meets their stage of life.
- **Long Time Residents** make up much of La Vista's households. Approximately 59% of all households have lived in La Vista for more than eight years and of rental households over 29% have lived in the same unit for over eight years. Developers state they are seeing higher level of lease renewals.

Table I.3: Percent Renter Occupied

| | % Owner-Occupied | % Renter-Occupied |
|---------------------|------------------|-------------------|
| La Vista, NE | 54.4 | 45.6 |
| Bellevue, NE | 63.4 | 36.6 |
| Gretna, NE | 57.4 | 42.6 |
| Papillion, NE | 70.7 | 29.3 |
| Ralston, NE | 58.3 | 41.7 |
| Council Bluffs, IA | 62.7 | 37.3 |
| Windsor Heights, IA | 73.2 | 26.8 |
| Leawood, KS | 89.8 | 10.2 |
| Roeland Park, KS | 71.3 | 28.7 |

SOURCE: U.S. BUREAU OF THE CENSUS

RENTAL HOUSING STATS:

- 3,170 apartment units existing or currently under construction within La Vista City Limits
- 217 single-family homes are registered as rental units within La Vista City Limits
- An additional 1,253 apartment rental units existing or under construction within La Vista extra-territorial jurisdiction

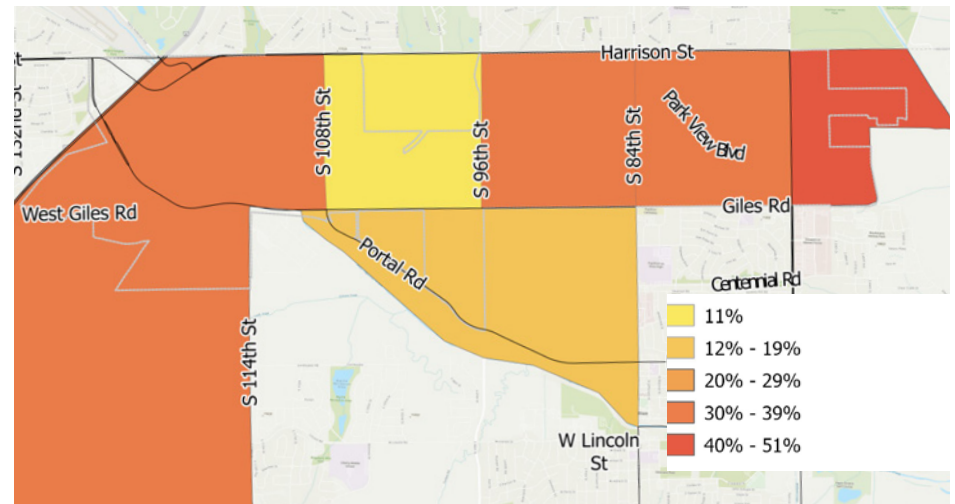
SOURCE: CITY OF LA VISTA

Table I.4: Change in Housing

| | 2010 | Percent Occupied | 2020 | Percent Occupied | Changes 2010-2020 |
|-----------------|-------|------------------|-------|------------------|-------------------|
| Owner-Occupied | 3,502 | 54.6% | 3,851 | 54.4% | 349 |
| Renter-Occupied | 2,917 | 45.4% | 3,222 | 45.6% | 305 |
| Total Vacant | 251 | | 241 | | -10 |
| Vacancy Rate | 3.8% | | 3.3% | | |
| Total Units | 6,670 | | 7,314 | | 644 |

SOURCE: U.S. BUREAU OF THE CENSUS

Map I.1: Percent of Renters Occupying Units for More Than Eight Years



WORKFORCE DATA

La Vista's economy contributes to the larger Omaha-Council Bluffs' economy as variation in housing types and prices affect where people live, work, and commute.

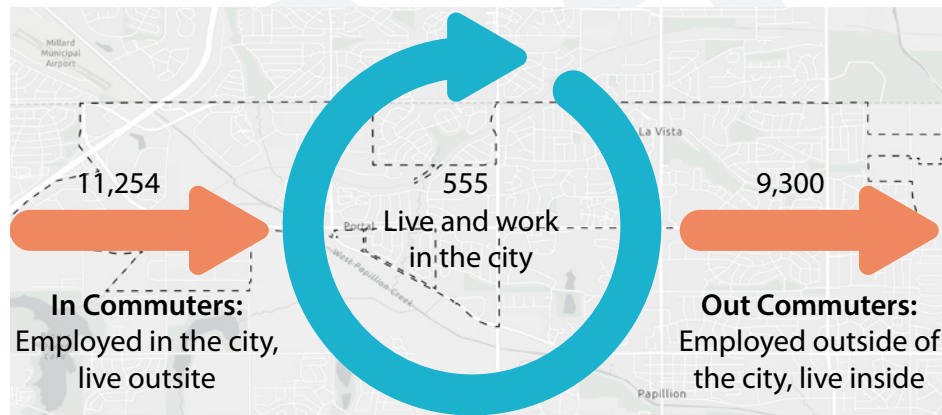
- **10,017 La Vista** residents are age 16 and older and are in the work force, according to 2020 American Community Survey (ACS) estimates.
- **La Vista's Employment** has grown from around 3,000 jobs in 2009 to 11,800 jobs in 2019.
- **Figure 1 Shows** the commuting pattern of La Vista. 94% of La Vista residents commute out of the city for work (62% to Omaha); while nearly 95% of jobs in La Vista are held by non-La Vista residents.
- **La Vista is Home to Several** of Sarpy County's largest employers including PayPal, Oriental Trading Company, Securities America, Rotella's Italian Bakery, and Streck Labs.

INDUSTRIAL DATA

The Sarpy West industrial market that includes La Vista, tends to be oriented to warehousing and distribution because of the proximity to Interstate 80 and Highways 50 and 370.

- **Industrial/Flex Space Vacancy** rate is 3.5% in Sarpy West submarket.
 - » La Vista industrial market contains 1.5 million square feet of industrial and flex space with an average of 1.5% vacancy rate.
- **Rental Rates are Rising**, since 2014 rental rates for industrial spaces have increased by 14%.
- **La Vista Remains** a highly desirable industrial market.
 - » High demand for space in the 10,000 to 40,000 square foot range.
 - » Firms that provide a combination of sales and service that require office and warehouse options find La Vista an appealing destination.
- **Expansion of Existing** businesses continues to generate opportunities for La Vista. Rotella's Bakery, Streck Laboratories, and Claas have all expanded in recent years and other businesses seem to favor this pattern of growth.
- **Demand Constraints Include** low vacancy rates, increasing rents, and the availability of sites. La Vista's land constraints is the biggest inhibitor to future industrial growth.

Figure 1.I: Commuting Patterns in La Vista



SOURCE: U.S. BUREAU OF THE CENSUS: ONTHEMAP, 2019



OFFICE DATA

The Omaha metro area has over 1,900 buildings with approximately 47 million square feet of rentable building space. The vacancy rate in 2022 was hovering just under 9%.

- **Historically Strong Markets** are having higher vacancy rates than in the past due to competition from newer construction or businesses downsizing their footprints in the wake of flexible work schedules.
 - » Sublease space is also more plentiful than before 2020.
- **La Vista Market** has over 480,000 square feet of office space with a low 2.2% vacancy rate.
 - » 83% of this space is attributed to Pay Pal and Securities America.
- **Speculative Multi-Tenant office** space has historically not been found in La Vista.
 - » City Centre is testing this market with over 20,000 square feet and the potential for more office space at full build-out.
 - » The success of these spaces will be an indicator for future opportunities within redevelopment areas.
- **Intense Competition Prevails** for office space. Higher competition between office space users is expected for the next five plus years due to:
 - » The amount of vacant office space at rents lower than new developments.
 - » Availability of office development within established developments.
 - » Slower absorption trends in La Vista and the broader market.

RETAIL DATA

In the last 15 years, La Vista's retail landscape shifted from the 84th Street corridor to the Southport area. The City Centre project will bring more spending back to 84th Street but at the same time shopping patterns are shifting across the nation.

- **La Vista Households** would be expected to spend over \$120 million a year.
 - » Taxable retail and restaurant spending totals nearly \$222 million; therefore, the city imports approximately \$102 million in retail sales.
 - » If it is assumed that La Vista residents did all of their retail spending in La Vista then \$0.46 of every \$1 is spent by someone working or visiting La Vista. However, this is unlikely and therefore visitors and workers likely assume an even higher portion of the city's retail sales.
 - *This is further supported by the Five District Study (see page 9) which found that between 82% and 96% of visitors to the five study areas come from outside La Vista.*
- **Retail Challenges Include:**
 - » Significant retail draws from Omaha and Papillion.
 - » Population growth moving south of La Vista with lots of options between new development areas and La Vista.
 - » Struggles even before COVID for small and mid-box retailers.
- **Significant Opportunities** to reposition spaces like Brentwood Square.
- **"Rooftop" Driven Retail** still often dominates projections and decisions. Expanding the city's population base through innovative housing options will expand the demand for retail.



#2 MARKET PROJECTIONS

Market projections are used to understand what changes are likely to occur and how demands in future land use are likely to be impacted.

- **Industrial flex space** will be in high demand. Low vacancy rates demonstrate La Vista is an appealing destination for businesses. Easy access to the larger metro area adds to this appeal.
- **Hospitality** continues to be an opportunity for the larger region. Hotel stays have steadily grown over the last year. La Vista has the opportunity to meet both regional demands for hotel rooms and additional demand from tournaments at the Nebraska MultiSport Complex.
- **Strong housing demand** regionally can be captured by innovative housing types. To protect existing housing products and expand opportunities, new housing development must innovative to meet an evolving housing market.
- **Empty-nester and retirees** are a prime housing market for La Vista. These households currently have few options if they wish to downsize or find lower-maintenance options. They often remain in their home or leave La Vista. Building for this market and filling existing homes with young families will grow La Vista's population more than building suburban style multi-family or the traditional detached single-family in development and redevelopment areas.
- **Growing the number of households regionally**, and the average household size, will create demand for new commercial uses in undeveloped and redeveloped mixed-use areas.



MARKET ANALYSIS

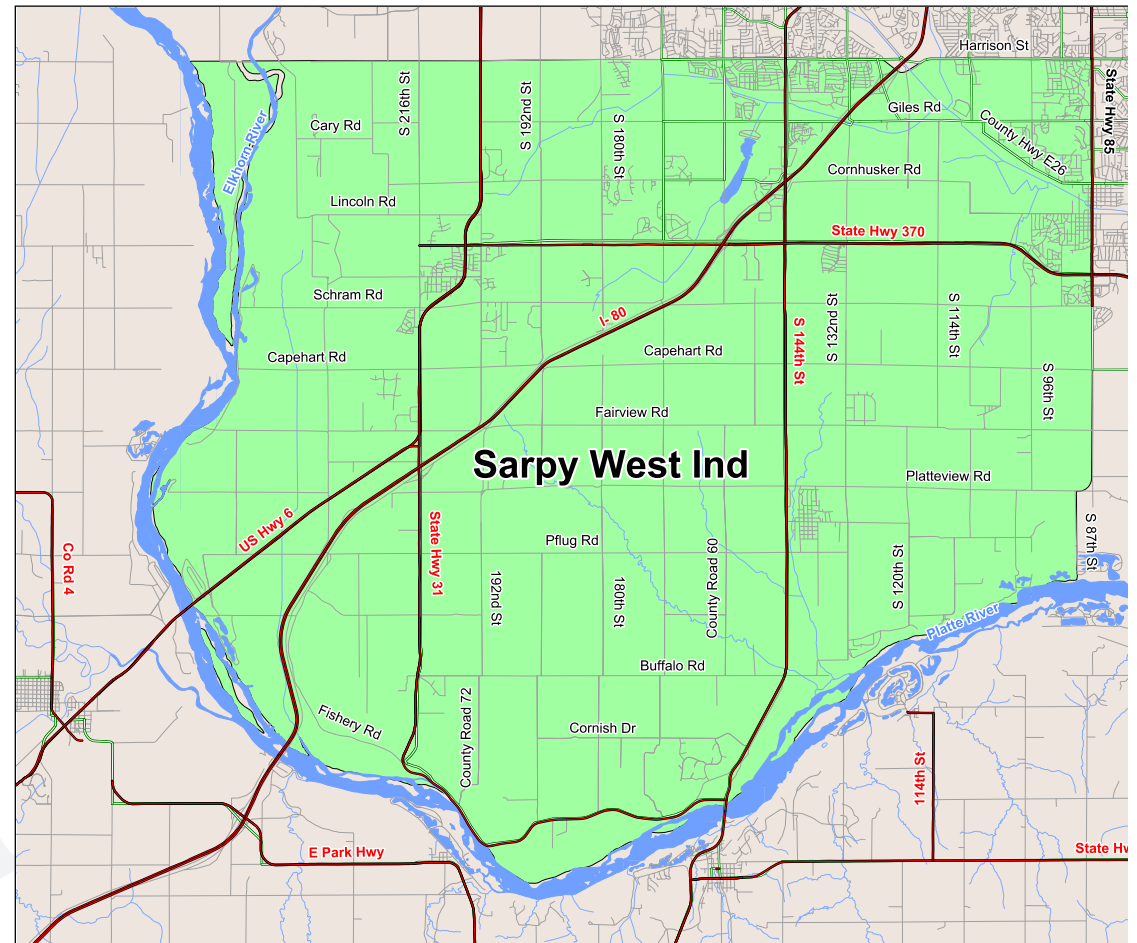
A market analysis was completed by Gruen Gruen + Associates to holistically understand current uses and opportunities for which La Vista will need to plan.

Competitive Position of La Vista

La Vista has both advantages and disadvantages compared to surrounding communities.

- **Proximity to Transportation** links or I-80, I-29, and Highways 370 and 50 along with being located between Omaha and Lincoln.
- **Growing Support Services** and amenities including a variety of hotel rooms and meeting spaces.
- **Critical Industry Mass** is being established for industrial users and available sites and building space for office space users.
- **Limited Industrial Land** supply for new sites but land that has traditionally been used as office space within industrial zoned areas that, if repositioned, could fill some of the lower intensity industrial demand.
 - » While the market demand indicates support for additional industrial there are very few commercial office spaces that would be appropriate for industrial uses.
- **Low-Household Population Density** surrounding the Southport development around I-80 and Giles Road makes it challenging to attract and support neighborhood services and convenience retailers/restaurants.
 - » Historically, regional commercial has been the main focus for this area.
 - » Continued expansion of visitor attractions and strategic housing investments will support existing and future retail growth.

Map 2.1: Sarpy West Submarket



Sarpy West Industrial Submarket

Per Copyright © 2017 CoStar Realty Information, Inc. All rights reserved.

Industrial Real Estate Market

Interviews with real estate brokers and developers indicate that La Vista remains a highly desirable and competitive location for industrial users.

- **Nearly 1.5 Million** square feet of industrial and flex space with a very low vacancy rate of 1.5%.
- **Increasing Industrial Rents** by 17% since 2014 in the La Vista market. Absorption of industrial space has nearly kept pace with new construction.
- **5.0 Million Square Feet** of industrial space is currently under construction within the Omaha region and nearly 70% of it is in the Sarpy West submarket.
- **Industrial/Flex Space Vacancy** rate within the Sarpy West submarket currently stands at a relatively low 3.5% with La Vista's flex space even lower at 2.2% vacancy rate.
- **Limited Remaining Industrial** designated land in La Vista, about 159 acres.
- **Real Estate Brokers** and developers indicate that La Vista is a highly desirable and competitive location for industrial uses especially for 10,000 to 40,000 sq. ft. facilities.
- **By 2032 664,000** square feet of warehouse/distribution/flex space could be absorbed in La Vista with an average annual demand of 66,000 square feet.

Office Real Estate Market

Interviews suggest the potential for satellite offices to expand and locate in La Vista to serve the growing population base and business establishments in Sarpy County. There is also some indication that the smaller scale spaces (like those offered in City Centre) are more attractive than large scale office spaces.

- **2.2% Vacancy Rate** estimated within the city and gross rent is relatively low at \$17.00 per sq ft.
- **City Centre Project** could accommodate approximately 557,000 sq ft of office space at build-out.
- **Sublease Market has Increased** as businesses experiment with hybrid work strategies or have seen consolidation to a different city.
- **Based on historic** region-wide absorption trends, a four year or more supply of development sites remain available.

Table 2.1: Employment Forecast for City of La Vista, 2022-2032

| Industry Sector | 2022 | 2027 | 2032 |
|---|---------------|---------------|---------------|
| Mining, Quarrying & Extraction | - | 0 | 0 |
| Utilities | - | 0 | 0 |
| Construction | 3,131 | 3,440 | 3,779 |
| Manufacturing | 1,812 | 1,923 | 2,041 |
| Wholesale Trade | 2,229 | 2,449 | 2,691 |
| Retail Trade | 1,152 | 1,181 | 1,113 |
| Transportation & Warehousing | 988 | 1,048 | 1,113 |
| Information | 63 | 65 | 66 |
| Finance & Insurance | 3,124 | 3,283 | 3,451 |
| Real Estate | 110 | 116 | 122 |
| Professional, Scientific & Technical Services | 490 | 503 | 515 |
| Management of Companies/Enterprises | 157 | 161 | 165 |
| Administrative Support & Waste Management | 412 | 423 | 433 |
| Education Services | 508 | 529 | 550 |
| Health Care & Social Services | 727 | 757 | 787 |
| Arts, Entertainment & Recreation | 159 | 163 | 168 |
| Accommodation & Food Services | 1,522 | 1,599 | 1,681 |
| Other (Personal) Services | 358 | 376 | 395 |
| Government/Public Administration | 149 | 153 | 157 |
| Total | 17,092 | 18,169 | 19,326 |

SOURCE: GRUEN GRUEN + ASSOCIATES

Forecast For Industrial and Office Space Demand

- **Approximately 2,200 Jobs** are forecasted to be added in La Vista over the next 10 years. Over 1,000 of those jobs would be added from 2022 to 2027 and approximately 1,200 jobs from 2027 to 2032.
- **Nearly 630 Office** workers are estimated to be added between 2022 and 2032, for a total demand of 158,000 sq ft of office space.
- **664 Workers Estimated** to be added for warehouse/distribution/flex space with a total demand of 664,000 sq ft.
- **221 Manufacturing Jobs** to be added for an approximate total of 159,000 sq ft.
- **Potential Additional Office** employment is estimated to require about 12 acres and additional warehouse/distribution/flex employment is estimated to require approximately 47 acres.
- **Capacity to Accommodate** additional office and industrial development demand over a period longer than the next 10 years can be found in La Vista.



Table 2.2: Forecast Office and Industrial Building Space Demand 2022-2032

| | 2022 to 2027 | 2027 to 2032 | Total |
|---|--------------|--------------|---------|
| Office | | | |
| <i>Added Workers</i> | 306 | 323 | 629 |
| <i>Space Demand</i> | 77,000 | 78,000 | 155,000 |
| <i>Annual Demand</i> | 15,400 | 16,200 | |
| Manufacturing | | | |
| <i>Added Workers</i> | 102 | 109 | 221 |
| <i>Space Demand</i> | 77,000 | 82,000 | 159,000 |
| <i>Annual Demand</i> | 15,400 | 16,400 | |
| Warehouse/ Distribution Flex | | | |
| <i>Added Workers</i> | 318 | 346 | 664 |
| <i>Space Demand</i> | 318,000 | 346,000 | 664,000 |
| <i>Annual Demand</i> | 63,600 | 69,200 | |

SOURCE: GRUEN GRUEN + ASSOCIATES

Table 2.3: Projected Land Requirements in City of La Vista 2022-2023

| | Office | Industrial | Combined |
|---|---------|------------|----------|
| Building Space Demand In Square Feet | 155,000 | 823,000 | 981,000 |
| <i>Average Floor-Area-Ratio</i> | 0.30 | 0.4 | |
| Land Requirement in Acres | 12 | 47 | 59 |

SOURCE: GRUEN GRUEN + ASSOCIATES

Retail Market Space

Gruen, Gruen + Associates completed a retail analysis and projections for La Vista in early 2022. Their report found:

- **Taxable Retail/Restaurant Sales** of nearly \$222 million in 2019/2020, well above the \$120 million estimated potential spending for La Vista residents.
» This would indicate that La Vista is an importer of retail dollars.
- **Population Growth Estimated** at 797 was used for the retail study. This is based on growth within historic city studies but later the housing analysis in this report would illustrate a greater potential growth based on strategic redevelopment and shift in product types within remaining development areas.
- **Population Growth Results** in over \$6.5 million in annual retail expenditures.
- **Job Growth Results** in an additional \$5.7 million in annual retail expenditures.
- **Retail Expenditures Over** \$12 million annually generates a demand for an additional 41,000 square feet of retail space.

It should be noted that the Gruen, Gruen, + Associates study based projected retail sales on projected household growth from the La Vista City Centre units and limited growth in other areas. The housing section later in this chapter lays out a strategy for much higher population growth based on providing housing for every stage of life. **If traditional residential housing patterns can be altered the city could potentially attract an additional \$3.2 million in annual retail expenditures** (based on Gruen, Gruen, + Associates per capita annual expenditures).

Table 2.3: Projected Land Requirements in City of La Vista 2022-2023

| | Population Growth | Employment Forecast |
|---|-------------------|---------------------|
| 2022-2023 | 797 | 2,200 |
| <i>Expenditures Per Capita</i> | \$8,168 | \$2,600 |
| Total Annual Expenditure | \$6,510,000 | \$5,720,000 |
| Sales Per Square Foot Required for Viable New Space | \$300 | \$300 |
| Supportable Amount of Retail Space in Square Feet | 22,000 | 19,000 |
| Total Supportable Amount of Retail and Restaurant Space in Square Feet | | 41,000 |

SOURCE: GRUEN GRUEN + ASSOCIATES



Hospitality

The visitor market appears to be rebounding in the Omaha metro area after significant challenges related to the Covid-19 Pandemic. Sarpy County hotels in the Spring of 2022 were running at approximately 68% occupancy. During the Berkshire Stockholder meeting in May of 2022 it was reported that occupancy was near 90% in the Omaha Metro area. Although there are several new hotel projects occurring in the Omaha market, including at least one in the Southport area, opportunities remain strong in La Vista. With the completion of the Nebraska MultiSport Complex demand for hotel rooms in the area will only increase. It is believed that during tournament weekends, the hotels in La Vista will be the first to reach full occupancy before overflow demand spills into surrounding jurisdictions.

Table 2.4: Number of Hotel Rooms in La Vista 2022

| Hotel | # of Rooms |
|--------------------------------|------------|
| Comfort Suites La Vista-Omaha | 72 |
| Courtyard by Marriott La Vista | 246 |
| Embassy Suites La Vista | 257 |
| Hampton Inn & Suites | 120 |
| My Place Extended Stay | 64 |
| Total | 759 |

SOURCE: GRUEN GRUEN + ASSOCIATES

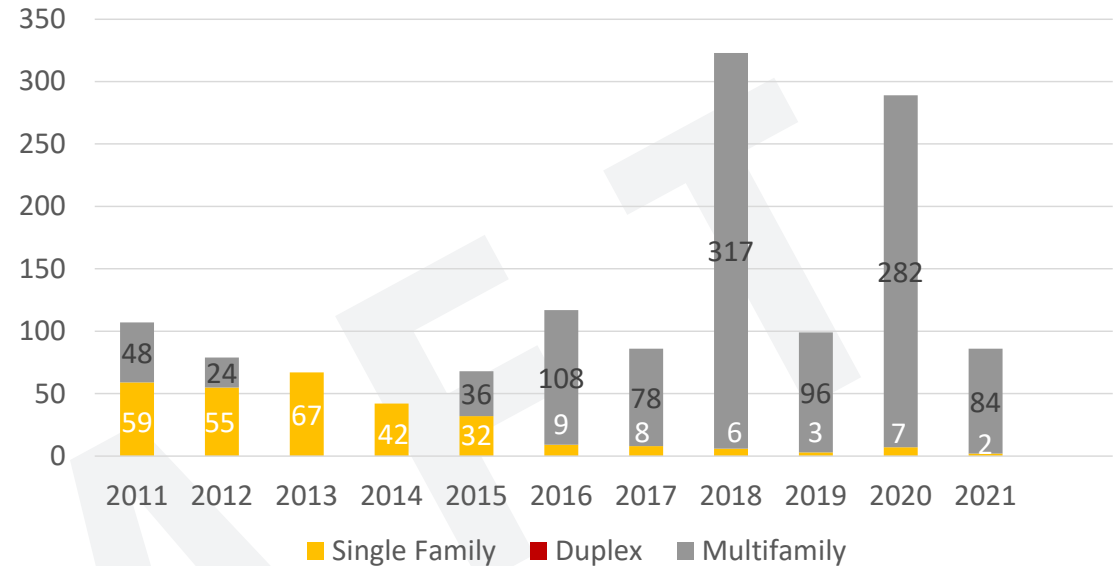


Housing

Housing needs exist throughout the Omaha-Council Bluffs area. The following evaluates how La Vista can grow its population by meeting housing demand with greater housing density and creative housing styles.

- **Significant Demand Remains** in the Omaha Metro area with an expected 100,000 units needed in the next 20 years (*Housing Affordability in the Omaha and Council Bluffs Area*; Omaha Community Foundation).
- **La Vista is Well Positioned to Capture Growth** but with limited areas for development, housing should look different than what has been provided in previous decades.
 - » In the last decade construction has been dominated by suburban style multi-family structures (multiple free-standing structures with detached garage structures, two to four public entrances for multiple units, and a series of hallway accesses to units).
 - *Positives: These units are at densities appropriate for a community with limited undeveloped land.*
 - *Negative: These units are not unique and can be found all over the metro area which can put them at a disadvantage when demand for rentals levels off.*
 - » Previous decades were dominated by single-family detached housing developments.
 - *Positive: These units historically attracted young families to the community.*
 - *Negative: Low density development patterns of single-family detached housing would quickly absorb the little bit of developable land remaining in the metro and like many of the multi-family structures can be found anywhere in the metro area.*
 - » Almost no “Missing Middle Housing” has been constructed in La Vista.
- **Approximately 1,902 Households** in La Vista are over the age of 55 and are likely empty-nester, smaller households.
- **If 25% of those 1,902 Households** move in the next ten years this would generate a need for 476 units.
 - » These households typically desire lower-maintenance options, where more challenging tasks, such as lawn and snow care, are met. Due to a smaller household size, a smaller foot print home is also highly desirable for this cohort, creating a demand for a product that is not traditional single-family detached or suburban style multi-family.
 - » A 2.64 Average Household size in 2000 dropped to 2.38 in 2020. If families at even an average of 2.5 people per household moved into the 476 vacated homes, La Vista’s population would grow by 1,188.
 - *If more households moved or the average household size is larger the city population could grow even more.*

Figure 2.1: La Vista Building permits by Unit



MISSING MIDDLE HOUSING:

Missing Middle Housing is a range of house-scale buildings with multiple units. These units are compatible in scale and form with detached single-family homes but at densities comparable to some of La Vista’s high-density neighborhoods. (see missingmiddle.com). Typical units include row houses, duplex, triplex, and fourplexes, courtyard apartments, bungalow courts, and live/work units. The lack of these units has left few options for empty-nesters and retirees that want to downsize or young households looking for urban living options.

- **476 Units is a Small Part of the Region’s Overall Demand.** The Omaha Housing Affordability Action Plan identifies the need for greater housing options, which include lower-maintenance units and units with greater accessibility. Missing Middle Housing is missing across the entire metro area and La Vista’s limited development opportunities positions the city to help fill this gap.

Land Use

Table 2.5 summarizes the distribution of land uses in La Vista along with a sample of other cities. The comparisons are based on the number of acres per 100 people to allow for easier comparison between different size cities. The ratios also provide a benchmark for the city.

- **Denser Residential Development.** La Vista's residential developments have used land more efficiently than the 68-city average but a city like North Liberty (Iowa City area) and Brookings have been even more efficient. La Vista should look to remain below 10 acres per 100.
 - » It should be noted that Brookings has limited development opportunities due to environmental constraints and University property. The city has worked hard in recent years to encourage smaller lots and more attached units.
- **Strong Commercial Land Use Mix.** The major retail and office uses in western La Vista serve a regional market that supports a slightly higher commercial land use ratio. While there are limited free standing commercial development opportunities, La Vista can continue to provide a high level of commercial services through more mixed-use developments. This may slightly lower the acres per 100 over time but that is only because land is being used efficiently to meet differing needs.
- **Steady Industrial Land Use.** Like commercial uses, La Vista has a limited amount of land that can develop as industrial. Over the next several years as these sites fill in this ratio should remain constant. The rate of population growth could have the biggest effect on this ratio. Increasing the average household size and filling in redevelopment and development areas could result in strong population growth that would lower the overall ratio. This is not necessarily a bad reason for a decline in the ratio.

Table 2.5: Land Use Comparison - Acres per 100 People

| City | Residential | Commercial | Industrial | Civic | Parks & Recreation | Right-of-Way |
|--------------------------|-------------|------------|------------|-------|--------------------|--------------|
| La Vista | 9.60 | 4.44 | 7.60 | 0.52 | 2.06 | 5.95 |
| Jurisdiction | | | | | | |
| Grimes, IA | 9.40 | 2.54 | 4.40 | 1.19 | 0.83 | 6.77 |
| North Liberty, IA | 8.62 | 1.67 | 0.98 | 2.20 | 3.21 | 2.58 |
| Shawnee, OK | 19.26 | 7.77 | 7.77 | 28.10 | 1.83 | 13.51 |
| Brookings, SD | 7.47 | 1.58 | 4.22 | 9.56 | 3.48 | 9.24 |
| Derby, KS | 11.48 | 1.37 | 0.40 | 4.77 | 2.61 | 5.04 |
| 68 City Average* | 10.53 | 2.14 | 2.93 | 5.08 | 2.95 | 7.15 |

* 68 varying sized communities RDG has worked with over the past 20 years

SOURCE: RDG PLANNING & DESIGN

- **Growing Park Ratio.** The Nebraska MultiSport Complex will add recreational land to the city, but these types of spaces serve a very narrow segment of the population. The city's ratio should be based on land that is accessible to all residents and offers more diverse recreation options. This includes passive and active recreation. The ratio should not decrease, and new development areas should include green spaces that serve new residents and potentially a wider neighborhood. La Vista will also need to investigate the need for future recreation amenities to ensure that the park and recreation system remains relevant.
- **Diverse Tax Base.** La Vista has a diversity of land uses with strong commercial and industrial numbers compared to several peer cities. With a smaller proportion of commercial and industrial land, city such as Grimes and Derby, are more dependent on residential tax bases.

CONCLUSIONS

The market review and projections are used as an initial framework for land use allocations.

- **Linking Support Services** and restaurants with proximate office space and residential uses helps promote denser, more mixed and integrated, uses that can help promote walkability. Policy should discourage the development of smaller freestanding locations for retail space.
- **Retail Consumer Patterns** have shifted, negatively effecting older retail spaces such as Brentwood Square. The City should be prepared to work with property owners and managers to develop business plans for the revitalization of older commercial shopping areas. These areas most likely could be replaced by a mix of uses that solidify an economically sustainable neighborhood model.
 - » Record inflation over the last 12 months and rising interest rates are leaving many feeling uncertain about households' disposable income spending in the near term. The market assessment in this study estimates demand over the next ten years. Often communities must take even longer term perspectives but determining demand following any recession is difficult to project. With that, the potential to build on the momentum created by entertainment commercial uses developing in La Vista today could create the opportunity for additional "new-to-market" uses longer term.
- **Meeting The Housing Demand** for every stage of life. Greater housing diversity will allow La Vista's large number of 55+ households to remain in the community and open their housing to the next generation of families.
- **Balanced Land Use** that allows residents to live work and play in the La Vista. Residential development should continue to be done in ways that use land efficiently and provides products not traditionally produced in La Vista or Sarpy County. Services should continue to expand but will have to be integrated with other compatible uses.



#3

FUTURE LAND USE PLAN

The Future Land Use Plan lays out broad development areas for La Vista based on findings from the Market Analysis and priorities identified in the city's Comprehensive Plan.

- **Creating more market** demand for retail through housing options that help the city grow to its greatest potential.
- **Creating integrated urban** neighborhoods where residents can live, shop, work, and be entertained.
- **Ensuring that industrial** options meet market demand but also continue to respect the quality development that community leaders have championed.
- **Increase residential options** with thoughtful and creative housing development and diversity of types. This includes addressing the need for Missing Middle Housing in developments that are walkable and close to commercial services and jobs.
- **Leveraging redevelopment opportunities** to create vibrant neighborhoods with jobs, services, and housing options.





Planning requires an understanding of the past. Those who have even skimmed “Creating a Community La Vista 50 Years” which chronicles the first 50 years of La Vista’s history know that even though the city is the youngest in the state it has a lot of history. This history includes a vision for what could be possible for current and future residents. From its founding, community leaders have been bold and steadfast in the desire to create a community that all could call home.

In recent years planning processes such as Vision 84 and the City Comprehensive Plan have proposed bold land use visions. The purpose of this section is to provide a framework and development principles for how and where development should occur. The policies laid out in this section build upon the market assessment and the city’s Comprehensive Plan goals.

Comprehensive Plan Goals

The following land use framework should support and bring to life the city’s Comprehensive Plan goals. These include:

LIVE LONG

- » Promote preservation and stability of older residential neighborhoods.
- » Maintain the balance of diverse, high-quality housing that appeals to people of varying backgrounds, incomes and abilities.
- » Integrate quality, higher-density housing with restaurants, retail, office and amenities in mixed-use environments.
- » Preserve the safety, walkability, and attractiveness of residential neighborhoods.

WORK HARD

- » Develop regional economic generators, considering the city’s existing and desired competitive advantages.
- » Support programs emphasizing local businesses.
- » Create a dynamic urban environment that is the preferred location for innovative, creative businesses and emerging industries.

SHOP LOCAL

- » Establish the city as a regional destination.
- » Establish the city as a place for local shopping and entertainment.
- » Create new public spaces and connections.

MOVE ABOUT

- » Promote physical activity through universally accessible parks, recreation and trail facilities.
- » Enhance the existing right-of-way to ensure a safe, connected, comfortable, efficient and accessible, multimodal transportation system.
- » Enhance the physical appearance and character of the community, with special emphasis on commercial corridors and community gateways.

HAVE FUN

- » Support the creation of a primary and secondary east-west trail system with connections to local networks.
- » Continue to provide a wide variety of park types and expand recreation options and programs.
- » Promote the ecology of streams and open drainageway systems by evolving them into a trail system with educational/interpretational components.
- » Continue to support and expand the city’s unique, high-quality community events and cultural services year-round to residents and visitors alike.

AND PROSPER

- » Promote environmental sustainability through clean sources of energy, and through conservation of energy and natural resources.
- » Stimulate, support and value innovative and public art as a community.
- » Ensure a transparent and accountable government that values the participation of residents of all ages and income levels.
- » Maintain the existing high level and efficiency of city services.
- » Improve and enhance the provision and efficiency of programs, education and activities through the community center and public library.

LAND USE AND DEVELOPMENT PRINCIPLES

Building off of the Comprehensive Plan goals, the following development principles establish the criteria for land use decisions, and should be applied to all development projects.

LAND USE POLICIES AND REGULATIONS WILL CREATE AND SUPPORT BALANCED NEIGHBORHOODS

Balanced neighborhoods provide residents with easy access to a variety of places to live, shop, work, play, and engage in community life. Mixing compatible uses, such as neighborhood commercial or recreation in a residential neighborhood, creates a sense of community and promotes efficiencies in infrastructure and travel times.

DEVELOPMENT SHALL BE FISCALLY RESPONSIBLE

Compact development, helps preserve the character of La Vista and optimize remaining developable land. This type of development distributes development cost across more units or users. Well planned sites minimize travel distances, are more accessible to both pedestrians and cars, and offer unique housing and shopping opportunities.

POLICIES AND DECISIONS WILL SUPPORT APPROPRIATE INFILL DEVELOPMENT

Infill development supports the economic value of La Vista's existing neighborhoods by promoting investment in established areas. Underperforming sites that are redeveloped should offer the amenities, services, and housing products needed to create a stronger La Vista.

DEVELOPMENT WILL PRESERVE DRAINAGE WAYS AND FLOOD ZONES

Preserving wetlands, low lying areas, and floodplains can protect property values for adjacent and downstream developments, enhance and connect the park system, and reduce flooding by providing more natural areas for water to be absorbed. Integrated stormwater management should enhance community character and allow La Vista residents to have better access to nature.

DEVELOPMENT AND REDEVELOPMENT WILL BE BUILT AROUND A CONTINUOUS TRANSPORTATION SYSTEM THAT INCORPORATES ALL TYPES OF TRANSPORTATION

A network of streets, trails, and pedestrian paths within developments should provide safe, efficient connectivity and accommodate a diverse set of mobility needs and preferences.



INTEGRATE AMENITIES SUCH AS OPEN SPACES AND TRAILS

Parks, open space, and other recreation uses can serve as neighborhood focal points that promote community activity, personal interaction, a sense of place, and ultimately a sense of ownership in the community. Developments should provide adequate greenspace and be connected to the wider community through sidewalks and trails.

LAND USE POLICIES AND REGULATIONS WILL SUPPORT DIVERSE AND APPROPRIATE HOUSING CHOICES

Market assessments indicate a clear need for more diverse housing options. The Baby Boomer and Millennial generations are demonstrating a growing preference for smaller lot homes and small scale multi-family housing.

USE PUBLIC INVESTMENTS TO PROMOTE DESIRED PRIVATE DEVELOPMENT

La Vista's public investments can be leveraged to promote private investments that have the longer term viability of the community as a primary goal. Targeted infrastructure improvements can attract investors looking to fill unmet markets and create investments that will have long-term financial viability. Any infrastructure investments should be done with the goal of maximizing private investment, thus supporting the long-term costs associated with any infrastructure or facility.

ENHANCE PUBLIC SAFETY AND MINIMIZE HAZARDS

Land use decisions have a wide variety of effects on public safety and hazard mitigation. Preserving natural drainageways to manage stormwater minimizes the risk of injury and property damage due to flooding. A well-connected transportation network promotes better emergency service provision and evacuation routes in case of large-scale hazards. A mixture of land uses within neighborhoods enhances security by creating activity and "eyes on the street" throughout the day.

MAKE DECISIONS IN A TRANSPARENT AND COLLABORATIVE MANNER

Land use and environmental decisions should be made through a transparent process, with opportunity for input from all citizens and affected entities, such as the county or school district. Creation and implementation of land use decisions should be shared responsibilities that promote quality living environments and efficient use of fiscal resources.



A LAND USE FRAMEWORK

Land Use Philosophy: An Intensity Based Approach

Contemporary growth in American cities has tended to separate different land uses through zoning. The concept of single-use zoning grew out of a need to separate people's homes from major industries, in order to protect their health. Still today, some uses can produce so much traffic, noise, smells, or other effects that separation remains the most appropriate policy. However, increasingly, mixing compatible, different uses is shown to create more interesting and attractive communities. The La Vista Comprehensive Plan recommends a flexible land use approach that allows mixing of uses.

A development pattern that encourages a mix of land uses and activities has a variety of benefits:

- » Promoting activity at various times of day, among various types of uses, increases security, vitality, and the number of people using public spaces.
- » Reduces the number of miles that people must travel daily by car, since homes are in close proximity to jobs and services.
- » Opens opportunities to build a variety of housing types. The development of housing above office and commercial establishments adds vitality to business areas and increases the economic yield on properties.
- » Nationally, more communities are finding that by mixing land uses, neighborhoods are more attractive to residents.
- » Plans and land development policies that provide appropriate use mixing also provide greater flexibility for developers, and avoid unnecessary regulation.

La Vista can achieve all these benefits by using a flexible land use framework that allows for appropriate mixing of compatible uses. The land use framework recognizes existing land use patterns while establishing an intensity based approach for developing areas. While this approach may allow for land uses with similar intensity to be integrated, each land use category has unique requirements for the following attributes:

- **Types of allowable uses**
- **Intensity, or density**
- **Compatibility, transitions between uses**
- **Form, or design**

In this section of the plan, each land use category is described in terms of its purpose, form, uses, intensity, and compatibility requirements.

Use: Integration and mixing of uses

One advantage of an intensity based framework is its ability to integrate different land uses. Uses may be integrated in two ways: horizontally and/or vertically. Horizontal mixed-use keeps individual building purposes separate but relates buildings harmoniously to each other. Vertical mixed-use puts more than one use in the same building. In the La Vista Land Use framework, most of the city's land is in multiple-use categories, but certain areas, such as industrial, are still kept as single-use areas. Broadening uses allowed within certain zoning districts will also be necessary to avoid potential spot zoning (the singling out a small parcel of land for a use classification totally different from the surrounding parcels).

Intensity

The La Vista Land Use framework designates how much development occurs in an area and how that development affects its neighbors. This is measured by intensity and/or density of development. In residential areas, intensity is measured by dwelling units per acre. For other uses, the amount of traffic a project generates or how it affects its neighbors determines intensity. Intensity for non-residential uses can also be measured by a factor called floor area ratio or FAR, calculated by dividing building's floor area by site area.

Understanding Intensity

| | Residential | Commercial |
|------------------|---|---|
| Low Intensity |  |  |
| Medium Intensity |  |  |
| High Intensity |  |  |

Compatibility

One of the most important concerns in land use planning is the relationship between different uses and their relative compatibility with each other. In areas where densities are low, compatibility is usually achieved using spacing between buildings and by congregating like uses together. This simple method is easy to administer and understand; however, it can lead to some undesirable conditions such as increased commute times and un-walkable neighborhoods.

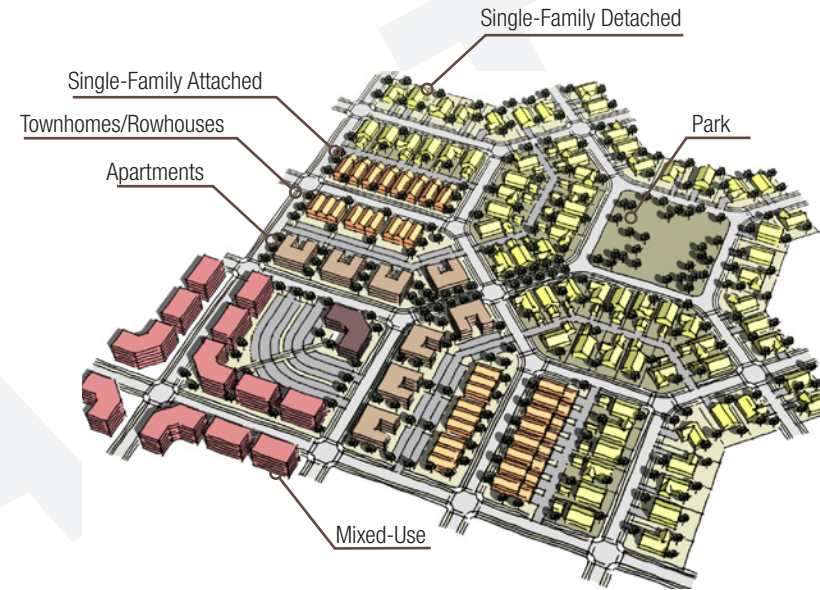
Compatibility in multiple-use districts can be attained in a more nuanced way by focusing more on the performance (effects) of various uses and designing land use regulations that allow for more integration of uses. If carefully done, the integration of uses can be achieved so that commute times become shorter, and neighborhoods become more walkable and interesting, all while preserving privacy, security and aesthetics.

The land use categories described in this plan exist on a continuum of intensity, and therefore have a continuum of compatibility methods. As land uses become more intense and uses become more integrated, compatibility methods focus less on spacing and congregating of similar uses, and more on performance-based methods that directly address issues such as noise, traffic, privacy, and aesthetics.

It is important to remember that while the intensity-based concept proposes mixing uses, it does not mean that every land use is appropriate everywhere. Location standards and compatibility requirements for higher impact uses are an important part of the land use system proposed in this plan.

Compatibility

Similar to what is illustrated in this diagram, La Vista's land use patterns should allow for integration of uses. This will occur horizontally, similar to this overall diagram, or vertically like a mixed-use building (City Centre).



DEFINING DWELLING UNITS PER ACRE:

If six single-family houses are included on an acre of land the density of the site is 6 units per acre (du/A). The higher the number of units on an acre the more intense the land use.

Form

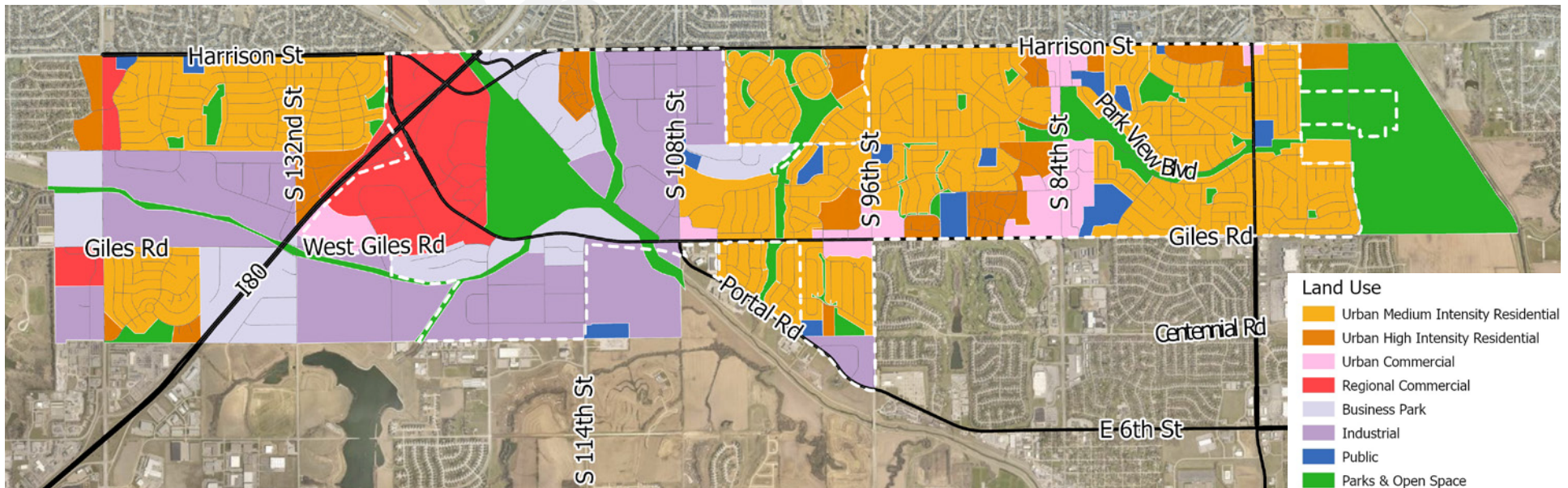
Form relates to how the developments in the land use categories are laid out, including the street pattern, the type of infrastructure required, how buildings relate to each other (e.g. - are buildings close together or separated?), and the relation of buildings to the street. Form also includes the scale of the buildings - the length, width and number of stories. The degree to which the buildings in an area are similar to each other in terms of these “form” characteristics impacts the perceptions of compatibility, and therefore market value.

CAVEATS TO THE FUTURE LAND USE MAP

The development concept and future land use map are based on economic trends, environmental analysis, and public input. The amount of land that is planned should be more than the projected need, in order to provide market flexibility, avoid creating a false land shortage, and provide long-term planning.

Three important points about the Future Land Use Map:

- 1. Property Owners Initiate.** The Future Land Use map depicts new land uses for privately owned properties. The transition of these properties from their current use to the depicted use is expected to occur slowly over time in response to market demands, as property owners voluntarily sell, develop, or change the use of their land.
- 2. Generalized Map.** The Future Land Use map should be interpreted generally and is not intended to provide the specificity or the rigidity of a zoning map or engineering document. The map should provide guidance for the zoning map through an informed prediction and planning process.
- 3. Basis for Land Use Decisions.** The Comprehensive Plan Future Land Use map shall provide the basis for decisions of the Planning Commission, the City Council, and private developers. The map is a critical part of the approval process for development proposals and zoning decisions.



Urban Medium Intensity Residential (UM)

DESCRIPTION

Neighborhoods with medium-density housing and easily accessed neighborhood commercial services. As compared to denser areas, UM has more space and separation of uses, with farther distances between destinations and fewer shared amenities.

USES:

A mix of complementary uses including mostly single-family, with attached, townhome and small multi-family (4-8 unit structures) projects that have single-family characteristics, schools, small parks and churches, and neighborhood retail or mixed-use.

FORM:

Uses are integrated so that residents can access them by walking or biking. UM areas use a high connectivity grid street pattern to expand viable locations for low intensity commercial uses, and allow multiple access points and route choices between all uses.

COMPATIBILITY:

Land uses and intensities shall be integrated with more detail. Compatibility shall be achieved through increased attention to traffic circulation and parking, site and building design, and on-site operations.

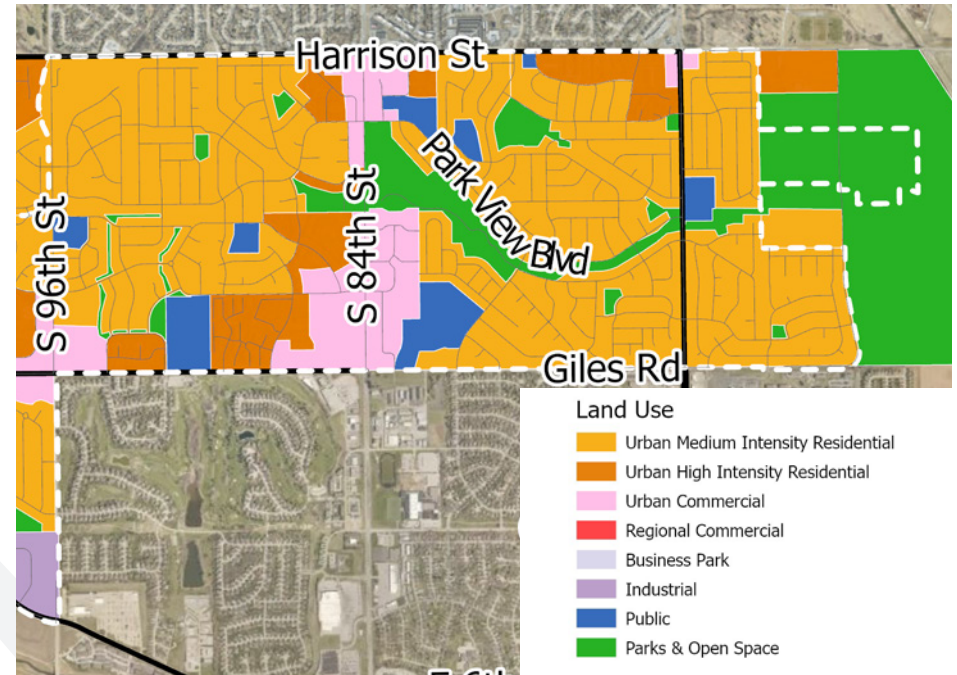
- » Land uses are sometimes mixed vertically, resulting in complementary and alternating times of use and the ability to share parking areas.
- » Different types of land uses are positioned to create a smooth internal transition from lower to higher intensity uses.
- » Smaller commercial uses are appropriate on collector streets but can also be located on arterial streets.

SUGGESTED INTENSITY (DU/A):

- » 3-9 (densities may be higher with house-scaled structures)

POTENTIAL ZONING

- » R-1
- » R-2



Urban High Intensity Residential (UH)

DESCRIPTION

These areas improve economic performance and opportunities for social interaction by locating diverse and complementary uses in close proximity. Higher-density mix of housing including multi-family, commercial, office, and service uses.

USES:

A mix of complementary uses, including multi-family, limited office, commercial, and compatible civic uses. Developments must provide a range of housing products that fill gaps in missing product types, diversify the market, and create environments for all stages of life. Residential uses may range from townhomes/rowhouses up to multi-unit structures but shall avoid apartment developments that form complexes disconnected from the surrounding neighborhoods.

FORM:

UH would generally be located at sites with access to major thoroughfares and activity centers. They shall be integrated into the fabric of nearby residential areas, while avoiding adverse traffic and visual impacts on lower density uses. Within new developments and redevelopment areas structures will have "house scale" to create more of a neighborhood feel. High level of pedestrian access and connectivity, avoiding the creation of compounds.

COMPATIBILITY:

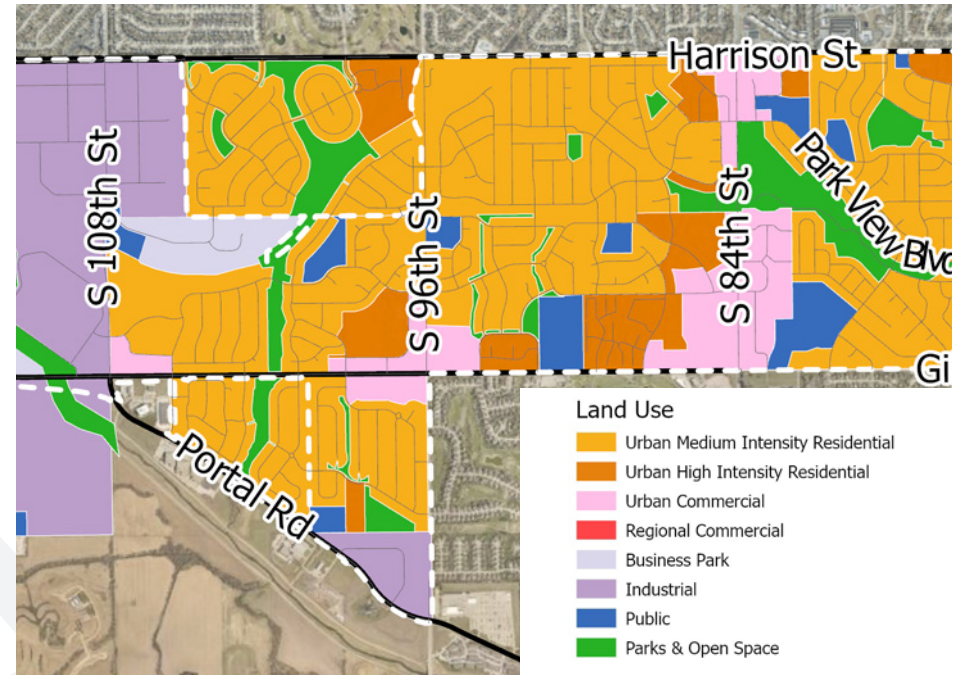
May have conflicts with low density residential developments that may be resolved or minimized through project design. Traffic and other external effects should be directed away from lower-intensity uses. Landscaping, buffering, changes in building form, and screening shall be employed to minimize negative effects. May be incorporated into mixed-use projects or planned areas.

SUGGESTED INTENSITY (DU/A):

» 9+

POTENTIAL ZONING

- » R-3
- » R-4
- » C-1 (with modification to allow higher density with design standards)
- » C-2 (with modification to allow higher density with design standards)
- » Use of the PUD with new developments and redevelopment sites to ensure a mix of uses



Regional Commercial (RC)

DESCRIPTION

Areas characterized by major community and regional commercial development that are both large in scale and have high traffic impact. Typically located near intersections of arterial streets.

USES

A broad range of retail services, including destination and recreation commercial uses, large-scale stores and services, auto related services, and large offices. Shopping and commercial uses anchored by 100,000 sq. ft. stores. Mixed-use residential may be appropriate when replacing older (obsolete) commercial uses, but commercial would be the dominant use.

FORM:

Should have access to arterial streets and accommodate the automobile, while providing good pedestrian and bike access to adjacent streets and trails. Horizontal and vertical mixing of uses shall be required in new developments and redevelopment areas. Regionally appropriate landscaping shall be used along all roads and within each development site. An internal pedestrian system should allow customers to park once and conveniently access several destinations within a retail center. Any residential shall be integrated into the commercial, preferably in vertical mixed-use configurations.

COMPATIBILITY:

Land uses and intensities shall be fully integrated and mixed. Compatibility shall be achieved through increased attention to traffic circulation and parking, site and building design, and on-site operations.

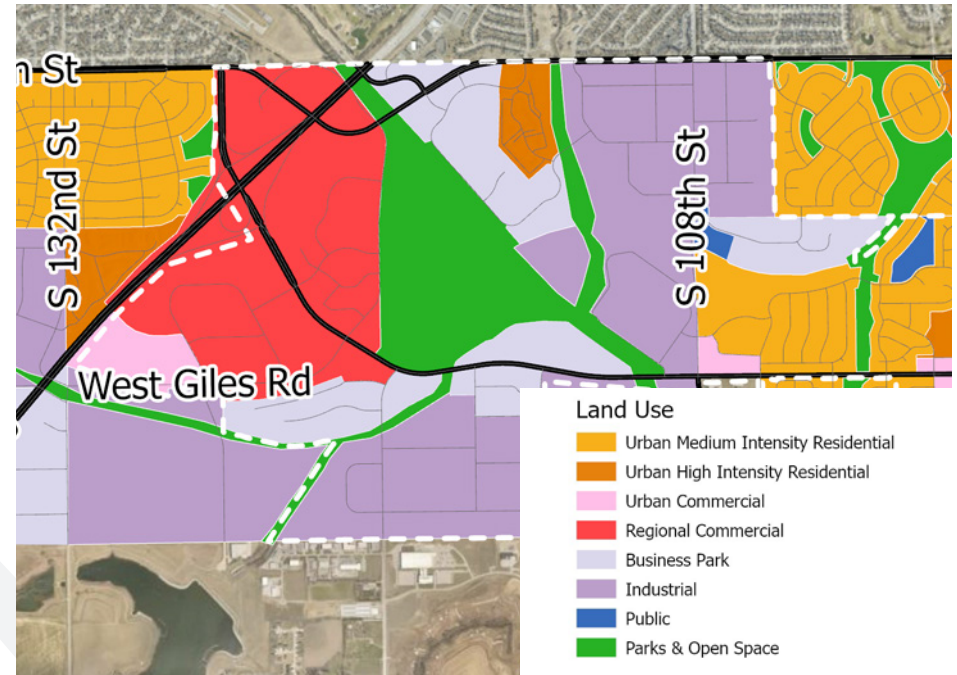
- » Potential negative effects on surrounding residential areas shall be limited by location and buffering.
- » Activities with potentially negative visual effects, such as inventory, shall occur within buildings or be screened.
- » Heavy landscaping shall be used along boundaries with lower-intensity uses.
- » Different land uses can be close together because design and amenities take into account proximity and make appropriate accommodations.

SUGGESTED INTENSITY (DU/A):

- » 12+

POTENTIAL ZONING

- » C-3 (with modification to allow mixed-use residential)
- » Use of the Planned Unit Development (PUD) with new developments and redevelopment sites to ensure a mix of uses



Urban Commercial (UC)

DESCRIPTION

These areas improve economic performance and opportunities for social interaction by locating diverse and complementary uses in close proximity. In La Vista, many of these areas are developed and have opportunities for redevelopment. Redevelopment should create integrated uses and address preferences for walkable urban areas.

USES:

A mix of complementary uses, including large offices, medical buildings, limited industrial, smaller scale multi-family residential, and other regional attractors. Higher levels of urban amenities are used to offset the area's intensity level. Residential uses shall create greater housing diversity and range from townhomes/rowhouses up to vertical mixed-use residential structures. Free standing, suburban style, apartment complexes that are not integrated into a development would not be allowed.

FORM:

Good access to arterials and transit, yet still designed around pedestrians. A high-connectivity grid pattern provides viable locations for higher intensity land uses, and allows multiple access points and routes between uses. Redevelopment of obsolete suburban commercial developments would incorporate these same features.

COMPATIBILITY:

Land uses and intensities shall be fully integrated and mixed. Compatibility shall be achieved through increased attention to traffic circulation and parking, site and building design, and on-site operations.

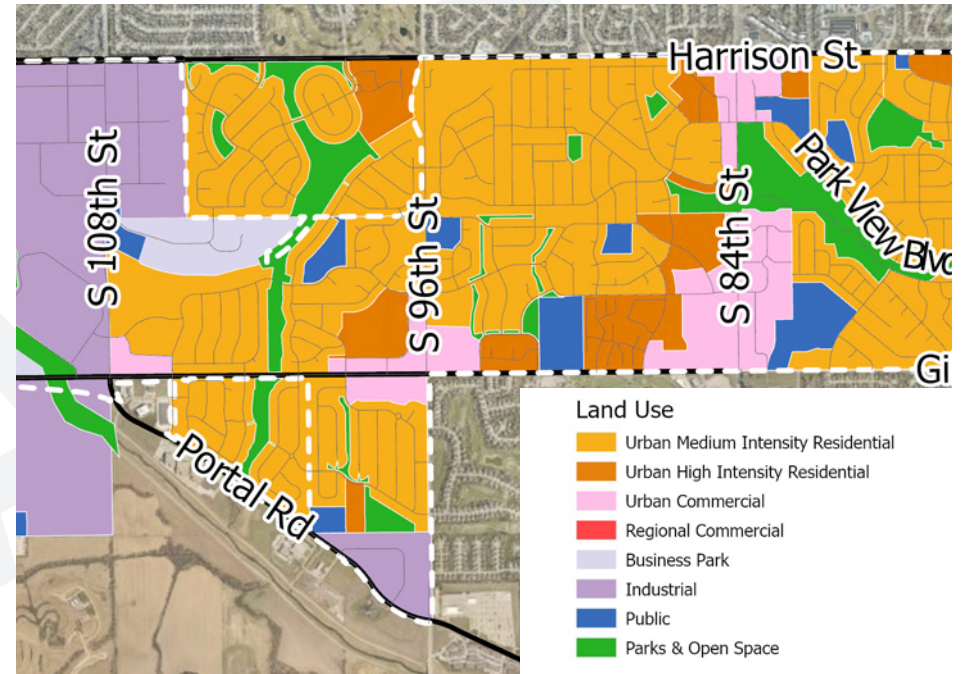
- » Different land uses can be close together because design and amenities take into account these juxtapositions and make appropriate accommodations.
- » Form and design rules and performance regulations address aesthetic and functional compatibility.
- » Small scale manufacturing and cottage industries (small scale manufacturing that can be done in a live/work unit) may be allowed with requirements that they mitigate any anticipated negative impacts on adjacent land uses and that they are located on arterial or collector streets.
- » Land uses shall be fully integrated horizontally and mixed vertically, resulting in complementary and alternating times of use and the ability to share parking areas.

SUGGESTED INTENSITY (DU/A):

- » 12+

POTENTIAL ZONING

- » C-1 (with modification to allow residential)
- » C-2 (with modification to allow residential)
- » PUD in new or redeveloping areas
- » MU-CC



Business Park (BP)

DESCRIPTION

Areas preserved for larger business development are essential to the region's economic stability and future growth. These areas maximize clustering for specialization, synergy, transportation efficiency, and knowledge exchange.

USES:

Centers with major office and business uses, such as technology and research centers, corporate headquarters, and lower intensity industries. Non-office uses should be limited to services or commercial uses that are needed to support the primary employment generators. Multi-family may be appropriate when integrated as part of a holistic development or workforce housing that incorporates the above mentioned uses or in support of area businesses (e.g.: Streck Laboratories).

FORM:

Require a higher standard for urban design, access, and other factors. Transportation improvements shall enhance connectivity, efficiency, and capacity. Signage and landscaping shall be held to a high standard due to the high visibility of these areas in La Vista. Increased stormwater runoff due to larger impervious coverage shall be mitigated on site through best management practices.

COMPATIBILITY:

Adjacent and internal development should not compromise the viability of employment lands. Incompatible uses such as lower density residential or elementary schools shall not be located within BP areas.

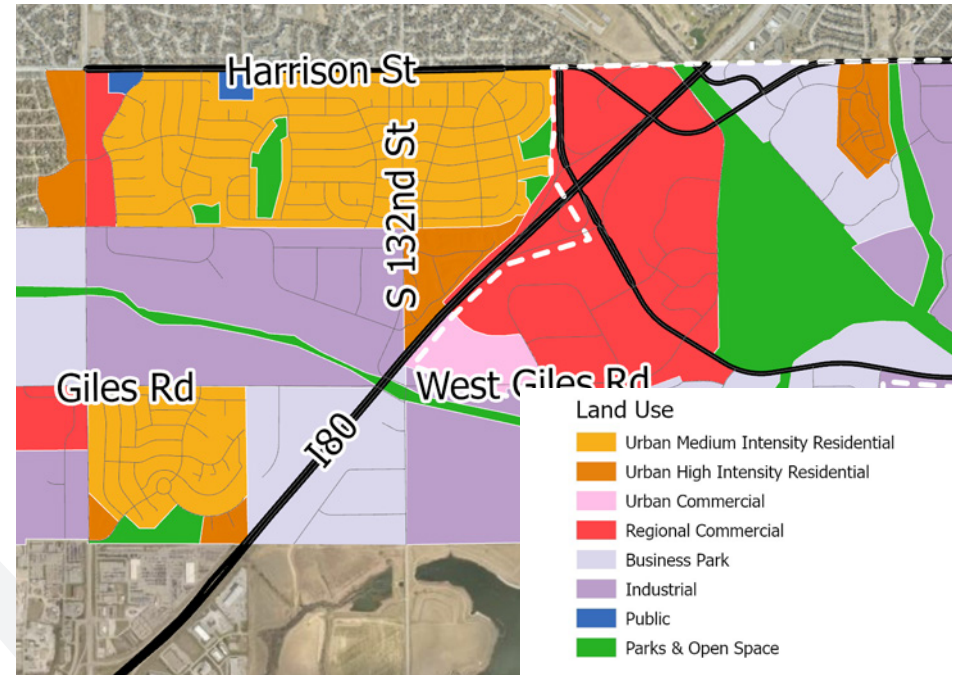
- » Development abutting a BP boundary shall be held to higher design standards to ensure compatibility between BP uses and possible adjacent residential or regional commercial uses.
- » In cases where transportation infrastructure has been installed with the purpose of providing capacity to BP areas, any proposed rezone or subdivision outside of the BP area must not reduce the transportation capacity of the BP area below the level intended.
- » Outdoor storage would not be permitted in these areas and any visual impacts (loading docks and dumpsters) shall be screened.

SUGGESTED INTENSITY (DU/A):

- » Not Applicable

POTENTIAL ZONING

- » C-3
- » I-1
- » Use of the PUD with new developments and redevelopment sites to ensure a mix of uses



Industrial (I)

DESCRIPTION

Areas intended to accommodate industrial uses. These areas acknowledge existing uses and protect areas to maximize clustering for specialization, synergy, and transportation efficiency. Uses may be difficult to integrate with less intensive uses due to negative impacts from heavy traffic, noise, or odors.

USES

These areas have a wide range of existing uses, including manufacturing, warehousing, distribution, and office/industrial flex space. Depending on the zoning district, uses in these areas can vary in size and aesthetic standards may be less stringent.

FORM:

Industrial areas should be developed with consideration of the following factors:

- » Freeway and rail access
- » Proximity to existing employment centers
- » Compatibility of neighboring land uses
- » Brownfield status
- » Impact of added employee/truck traffic to the level of service of roadways in the surrounding area and impact on the non-industrial uses along those roadways

COMPATIBILITY:

Development within Industrial areas will be similar in nature, so compatibility is less difficult to manage. However, because many of La Vista's industrial areas are also highly visible, the following shall be considered.

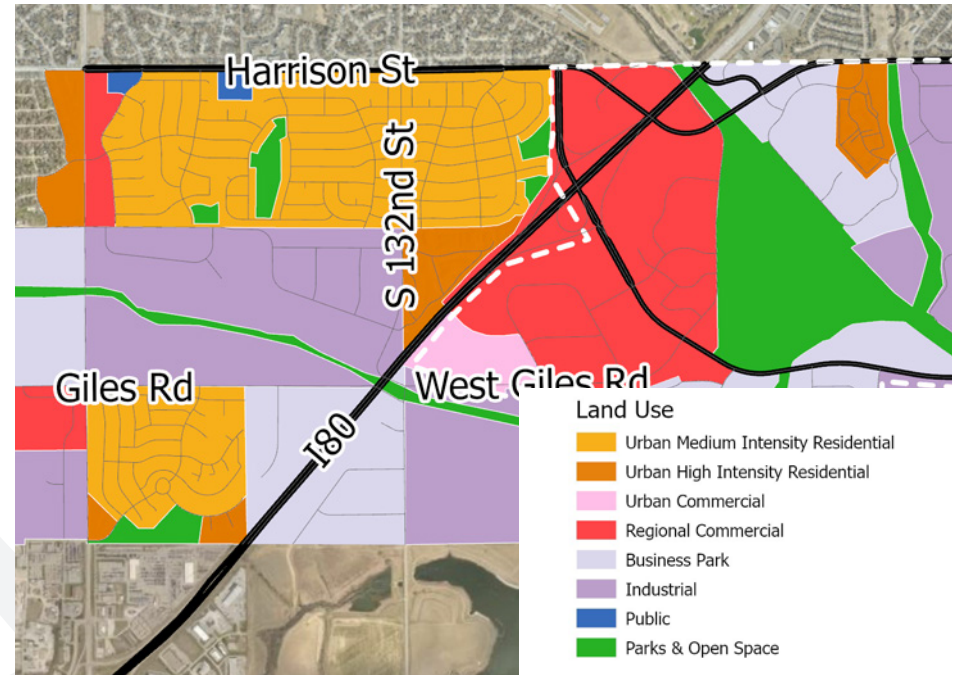
- » Design standards including land buffers, architectural and site design standards, and other appropriate standards implemented through PUDs or new codes or guidelines.
- » Operational standards that consider traffic, noise, lighting, and air quality.
- » Screening of permitted outdoor storage areas visible from any street or adjoining neighborhood to mitigate negative environmental impacts.

SUGGESTED INTENSITY (DU/A):

- » Not Applicable

POTENTIAL ZONING

- » I-2
- » I-1



Public (P)

DESCRIPTION

To provide space for educational, institutional, assembly, and other public uses, including hospitals, major campuses, cemeteries, and major utilities.

USES:

- » Educational: Public, private and parochial institutions at K-12 and post-secondary level, or trade/business schools and their accessory uses.
- » Institutional and Assembly: Community or cultural facilities, religious institutions, public health care or human services facilities and their accessory uses.
- » Government

FORM:

Public facilities shall be held to the same standard for site design and connectivity as any private enterprise of similar intensity.

COMPATIBILITY:

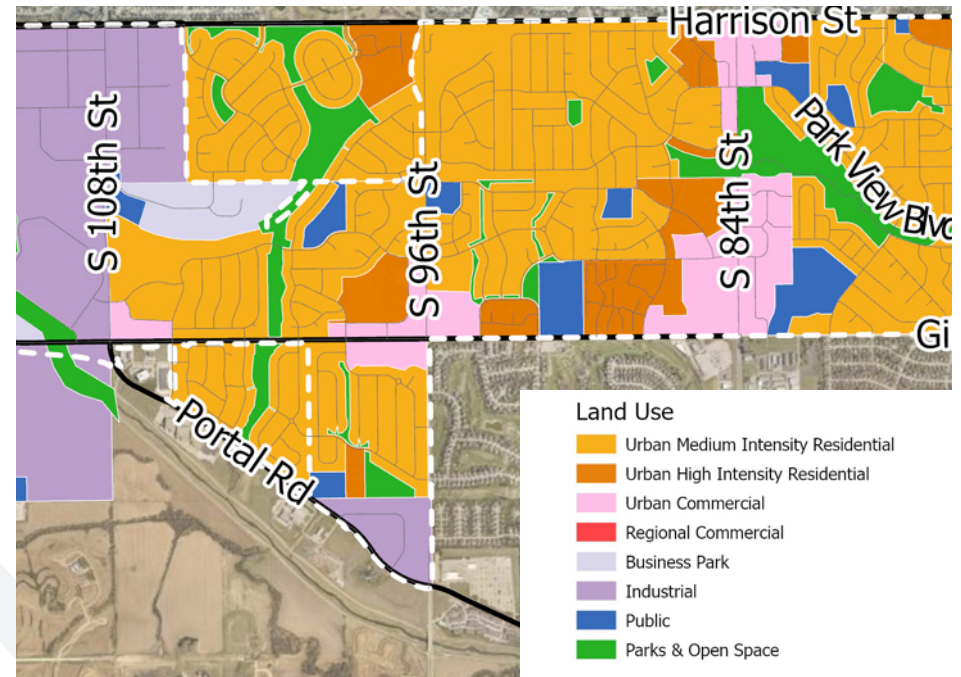
Civic uses may be permitted in a number of different areas, including residential areas. Maintenance, operating facilities and public works yards should generally be located in industrial areas. Individual review of proposals requires an assessment of operating characteristics, project design, and traffic management. Industrial operating characteristics should be controlled according to same standards as industrial uses.

SUGGESTED INTENSITY (DU/A):

- » Not Applicable

POTENTIAL ZONING

- » Almost any zoning district as long as intensity of use matches
- » Higher intensity uses with negative impacts related to heavy traffic, noise or smell would be zoned I-1 or I-2



Park & Open Space (PO)

DESCRIPTION

Areas intended to remain undeveloped and natural or recreational in character.

USES

Limited, primarily natural and recreation uses. Generally development is recreational and low impact but indoor recreation facilities and park maintenance facilities would be appropriate to these areas.

FORM:

Traditional park and recreation areas including both passive and active recreation. Environmentally sensitive areas and creeks/drainageways that should be preserved and incorporated into the city's trail system.

COMPATIBILITY:

These areas are valuable for their natural character and uses within them should have minimal impact. This requires minimal visual, auditory, and other pollutants that would reduce the pristine character of areas. Aids for compatibility may include:

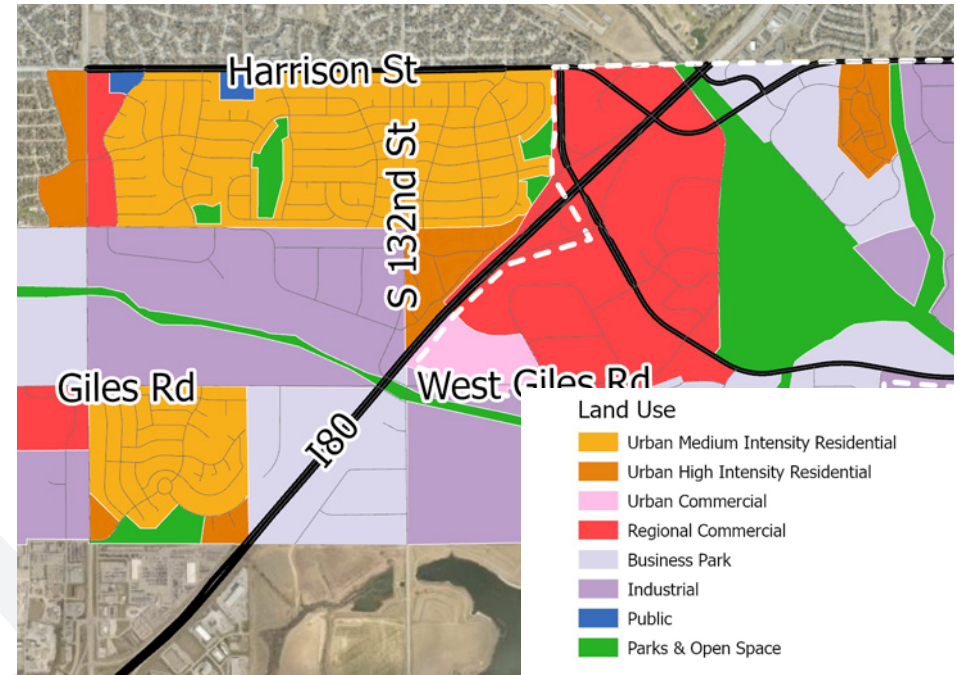
- » Heavy landscaping screening, very large buffers; height limitations, zero odor emissions, and limits on hours of operations for facilities that create noise or lighting impacts.
- » More intense recreation uses, like sports complexes should be treated like comparable commercial uses for the traffic and compatibility issues that they can generate.

SUGGESTED INTENSITY (DU/A):

- » Not Applicable

POTENTIAL ZONING

- » Compatible with most zoning districts
- » Higher intensity recreation facilities that generate more traffic would potentially be zoned TA, C-1, C-2 or C-3.



OPPORTUNITY AREAS

La Vista has a limited number of strategic development and redevelopment areas that remain within the city and its jurisdiction. **A short-term outlook on these sites would do a disservice to current and future residents.** The purpose of this section is to examine these strategic areas and provide guidance for development patterns that will support the Plan's goals and long-term vision (see page 30).

In the process of developing this plan and the city's Comprehensive Plan, several themes emerged that required a more detailed exploration of key opportunity areas.

- » La Vista has a finite amount of land to accommodate development demand. The Comprehensive Plan process expressed a strong focus on promoting responsible infill development to make the most of the developable land. La Vista City Centre is an example of the city's patience to promote unique infill that fits within the community's goals rather than a product that can be found anywhere in the metro area.
- » The exceptional pride that residents have originates from the recent memory of La Vista as a pioneering community. The House of 9s and the origins of the city as an affordable family-oriented community is important to many residents. Continued development of unoriginal and commonly found products in the metro region lessens the unique quality and history of the city.
- » The community is committed to improving the quality of life for all its residents and stakeholders. To best serve its population the city recognizes that it must:
 - *Improve the function and value of its older commercial areas*
 - *Offer a variety of housing options for every stage of life*
 - *Focus on building quality places for current and future generations*
 - *Create destinations that attract visitors from a large region*

Many of these themes focus on looking at ways to improve areas of the city through site treatments, development policy, and targeted reinvestment.

There are seven key opportunity areas where the above goals and themes can come to life:

- **Lower Southport West**
- **Brentwood Square**
- **Hillcrest Plaza**
- **108th & Giles**
- **The Original 9's**
- **La Vista Sports Complex**
- **City Centre Environs**



A NOTE ON OPPORTUNITY CONCEPTS

The concepts illustrated in the following section should be viewed as a guide or example of not only the uses but the form and scale that will be achieved in these areas. With limited development opportunities, the city encourages **creative** ideas that will be economically resilient and speak to the quality that La Vista desires.

Lower Southport West

THE CONTEXT

Southport, including the south quadrants of the Giles Road interchange with Interstate 80, has been a signature development focus for La Vista since construction of this interchange during the 1990s. The city has consistently supported growth in this area through major investments in the street network, infrastructure, the La Vista Conference Center, and support facilities such as public parking. This development has produced major retail destinations in Costco and Cabela's, a conference hotel with Courtyard/Embassy Suites, employment concentrations anchored by PayPal, Securities America, and other retail, services, hospitality, and office facilities. This momentum is continuing in 2022 with Nebraska MultiSport Complex, a regional soccer and sports center east of Eastport Parkway, new retail, and new-to-market recreational/entertainment development between 125th Street and Giles Road.

Southport has one substantial undeveloped site – a 32-acre parcel in single ownership north of Giles Road between Westport Parkway and Interstate 80, referred to here as Lower Southport West.

THE OPPORTUNITY SITE

The Lower Southport West site has excellent direct visibility from Interstate 80 and is the first part of the overall development area seen from eastbound I-80. This visibility suggests a high potential for intensive development. However, actual access to the site from the Interstate is complicated, partially by the Cabela's site design that visually and functionally terminates the main Southport Parkway entrance. The Lower Southport West parcel also lies below the adjacent three-building District at Southport commercial project to the immediate north, complicating its connection to the rest of the development area. While the City has received considerable developer interest in Lower Southport West, most of these projects have been inconsistent with La Vista's Comprehensive Plan goals, which include creating fewer siloed land uses and more integrated and walkable destination oriented development.

ANALYSIS

The lay of the land, somewhat indirect access, and visual separation within the site create the need for uses that will be driven by intentional visitors. Substantial office development with a limited commercial component could be a feasible land use program, but uncertainty in the current post-COVID office market make another development on the scale of PayPal unlikely in the short run. The area does have a growing reputation for entertainment recreation uses and hospitality. Ultimately, the private owner of the property has a reasonable expectation of a return and a land use solution that both appreciates this expectation and La Vista's goals for effective use of a strategic site.

Current market conditions and consultation during this planning process suggest that the most likely short-term use of the site is multi-family residential. If we look at Southport from the perspective of an overall 250-acre regional destination district, the one use missing from the mix is residential. Yet, a conventional suburban walk-up apartment complex would lose the opportunity to contribute to a distinctive urban district. During interviews, mixed-use developers from the metro area did not believe that single use residential was the best use of this site. In addition, a site of this size must include a variety of residential settings and choices, while still maintaining a high density framework.



POLICY FRAMEWORK

The concept displayed here illustrates the following principles:

- **Mixed-use environment.** Residential appears to be the use most consistent with current demand. However, residential must not be the only use on the site. **The land plan must take a longer-term view and include space for possible offices and a supportable amount of retail/commercial within the overall residential context to meet the city's needs.** It must continue the original vision of Southport as a destination area by also providing opportunity for entertainment, commercial recreation, hospitality, and/or regional commercial developments.
- **Connection to the rest of the Southport development area.** In the illustrated concept, this extends Portside Parkway, the south edge of the Cabela's site and north side of Costco, as the "main street" of Lower Southport West. Pedestrian paths connect Lower Southport West to the District and the rest of the development area at a break in the buildings where the grade change is manageable. This connection would integrate the local commercial services in the existing project to potential residential customers in a new "neighborhood."
- **Urban housing options.** Residential buildings shall provide options for a variety of households. The concept includes Missing Middle housing options, including small footprint multifamily buildings; retail or office uses; and higher density residential with commercial spaces (similar to La Vista City Centre). Housing must stand apart from the traditional single-family home or the suburban walk-up apartment and fill the gap in lower-maintenance and smaller scale multi-family options.

Lower Southport West Development Features



- 1 - Urban Commercial
- 2 - Mixed-Use
- 3 - Higher Density Residential with Commercial Spaces
- 4 - Small Scale Multi-Family
- 5 - Regional Commercial/Entertainment/Hospitality/Commercial Recreation
- 6 - Integrated Stormwater Management
- 7 - Existing Commercial Uses

- **Recreation Entertainment Commercial.** Lower Southport West should build off of the momentum of the MultiSport Complex, new-to-market commercial uses, and destination commercial, recreation and hospitality uses in the area. The most likely opportunity for this type of use is within the western portion of the site. This portion of the site has great visibility from east bound interstate traffic and has direct access to the Alamo Theater site. Using the grade changes commercial uses on the north side would have a distinct view of lower level uses. The area should be connected to the Alamo along with a well defined entrance along Portside Parkway.
- **Effective stormwater management using natural grades.** The swale that bisects the site should become a part of the site's stormwater management plan with a retention feature and water amenity located north of Giles Road.
- **Parking as a necessity but not a dominating feature.** Parking occupies the largest amount of land use in Southport, but it should be done at a smaller scale in Lower Southport West. This includes allowing on-street parking to count towards residential parking requirements. What parking is done should be less visually dominating.
- **Planned Unit Development.** The final site should be done through a PUD that sets a basic master plan for the site. The PUD must, at a minimum, incorporate the policies laid out in this document.

SOUTHPORT AS A WALKABLE ENVIRONMENT

While the Lower Southport West concept includes connection to the rest of Southport, the rest of the area would benefit from greater walkability and connectedness. This would help make the Conference Center, Embassy Suites, and other hotels more attractive to a market whose customers increasingly require walkable connections to amenities, services, and destinations. Improvements will involve minor design modifications to large parking lots, walkways from the public sidewalks to building entrances, stairs and ramps to negotiate grade changes, traffic calming features with enhanced pedestrian crossings, and activity centers and features along the sidewalk system. As development ideas come forward, this should be viewed as a guide to the form, scale, and quality the city wants to achieve in this area as specifics are negotiated.

Missing or Lacking Housing Types In the La Vista Market



TOWNHOMES



DUPLEXES



COTTAGE COURT



SINGLE-FAMILY ATTACHED



SMALL LOT SINGLE-FAMILY



SMALL SCALE MULTI-FAMILY

Brentwood Square

THE CONTEXT

Brentwood Square was once a thriving commercial center filled with large-box commercial uses including a grocery store and a Gordman's department store. This type of retail has struggled for a number of years, beginning with competition from new sites and finally from internet sales. Over the last decade the commercial spaces have filled with second-hand stores and other mid-level commercial uses.

The overall site has several issues.

- » The parking once needed to support the larger retailers now sits empty with deteriorating concrete and landscaping.
- » A lack of pedestrian amenities and a complete disconnect between sidewalks along 84th Street, Giles Road, and Brentwood Drive and the structures on site.
- » A Granville Parkway intersection with Brentwood Drive that is likely too close to the 84th Street and Brentwood Drive intersection.

Just to the northeast, the La Vista City Centre project is bringing new life and energy to the 84th Street corridor. As this project builds out, the Brentwood Square area would be the logical next step in the revitalization of the 84th Street Corridor.

ANALYSIS

Older commercial corridors were dominated by large box retailers and parking lots meant to accommodate outdated, seasonal needs. In the last decade demand for smaller scale commercial spaces has grown along with a desire for more mixed-use, walkable environments. The market analysis indicates a strong demand for housing variety. The La Vista City Centre project is creating opportunities for households to live in a vibrant urban environment. There are few residential options for households still wanting an urban feel close to retail services. The Brentwood site offers the perfect opportunity to be close to entertainment options in La Vista City Centre, without having to settle for a suburban style residential subdivision. Or, for the households wanting to move out of the single-family detached home but not interested in moving to a multi-unit structure.



POLICY FRAMEWORK

The concept displayed here illustrates the following principles:

- **Continued commercial uses.** This area of La Vista should continue to be a commercial hub for the city, but that commercial will look different from the historical big box retail. Clearly defined pedestrian access should connect businesses/buildings. The buildings should incorporate some of the more interesting indoor/outdoor features evolving at City Centre. The commercial uses should also anchor the major intersection, thus providing a buffer between these busy intersections and interior residential uses. This means that both the street facing and interior facing sides of a building will need to be thoughtfully designed.
- **Parking as a necessity.** Parking must not dominate this area and quality pedestrian connections should connect businesses to all available parking. Residential parking should also be discreet. The concept drawing to the right illustrates this idea. Parking (garage doors) for the townhomes is generally not visible from the street. For the units on the far north end, the grade change could be used to accommodate parking with garage parking on the lower level and unit frontage on 84th Street.
- **Non-traditional housing options.** Housing in this area shall offer an alternative from the suburban style multifamily to the west and the single-family detached in the broader area. The site should also not be dominated by the mixed-use (residential/commercial) buildings found in the City Centre development but rather an alternative not frequently found in the area.
- **Mixed-Use transition points.** Within the center of the development some residential and commercial mixed-use structures may exist that soften the transition between urban commercial uses and more residential areas.

Brentwood Square Redevelopment Features

- 1 - Urban Commercial
 - 2 - Mixed-Use (lower level commercial with upper story residential)
 - 3 - Higher Density Residential with Flex Commercial Spaces
 - 4 - Small Scale Multi-Family
 - 5 - Townhomes
 - 6 - Integrated Stormwater Management
 - 7 - Linear Park/Urban Green
 - 8 - Traffic Calming
 - 9 - 84th Street Streetscape
- **Clear internal circulation.** A realigned Granville should provide a continuous connection from north to south. The realignment moves the intersection further away from 84th Street and creates appropriately sized development areas. Granville Parkway should include landscaping and traffic calming such as diagonal parking and raised pedestrian crossings (speed tables).
 - **High quality greenspaces.** There are three core components to the site's greenspaces:
 - » Integrated stormwater management
 - » Implementation of the 84th Street Streetscape Plan
 - » A linear park or greenway that provides an open space to residents and connects the 84th Street streetscape to the residential areas both internally and to the west
 - **Pedestrian circulation.** An extensive pedestrian circulation system should connect businesses, housing, greenspaces, 84th Street and housing to the west in a continuous and easy to navigate system.
 - **Master Plan.** Ultimately the redevelopment of this site should be done with a detailed master plan that includes many of the policies laid out in this document.



Hillcrest Plaza

THE CONTEXT

The 96th and Giles intersection is a significant neighborhood-scaled retail and service center. Establishments include a Walmart Neighborhood Market, convenience stores, bank branches, personal services, restaurants, the Primrose School child care and pre-school center, and both single-family and medium-density residential settings. Of special significance are health services and senior living facilities, anchored by the CHI Health family medicine clinic and the Meriwether. While the intersection represents a significant activity center in La Vista, the design and scale of its commercial and other non-residential buildings transition effectively to surrounding residential areas.

THE OPPORTUNITY SITE

The Hillcrest Plaza opportunity site is an approximately 12.75-acre parcel, located a short block off the 96th and Giles arterials. Hillcrest Plaza provides primary access to the site. S. 98th Plaza connects the site to Giles Road and is also aligned with the primary entrance to the Val Verde multi-tenant retail and business center to the south. Immediate neighbors are the Meriwether senior living center and Primrose School to the east, single-family homes to the north and west, and Culver's restaurant, professional offices, and a swim school to the south along the Giles frontage. The site slopes gently down to the south but topography does not present unusual constraints on site design or land use.

ANALYSIS

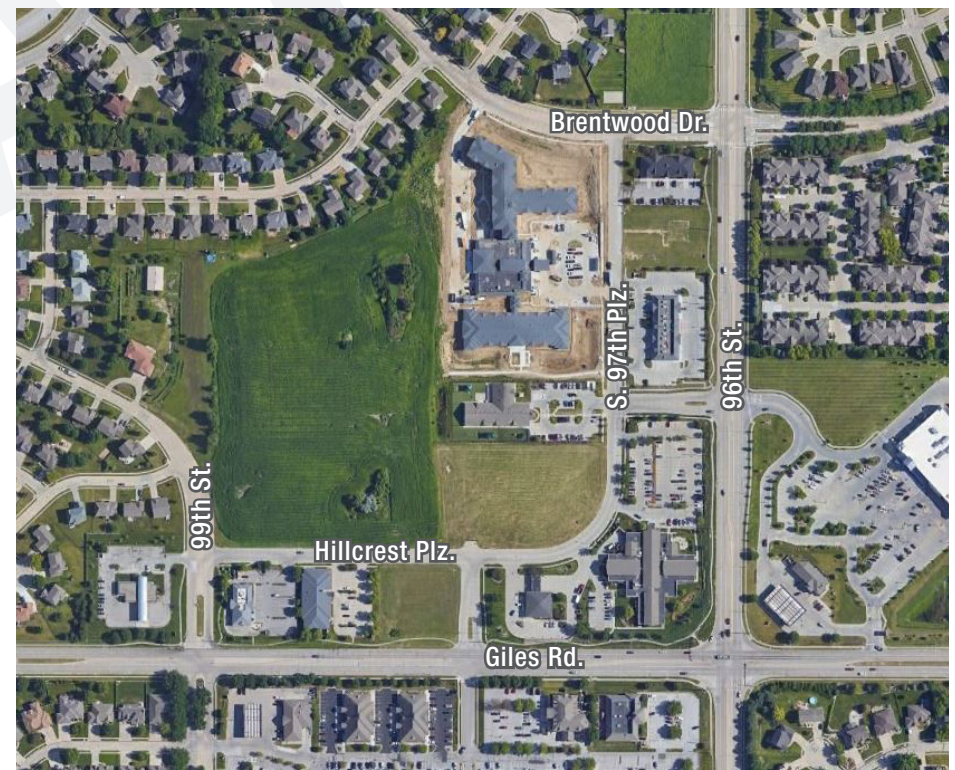
The site's relationship between well-designed suburban non-residential development along the Giles and 96th and single-family neighborhoods strongly suggests a transitional, primarily residential use for the Hillcrest parcels. Adjacency to the Meriwether, the CHI Health clinic, and significant health-related service businesses suggests living environments for older adults at a density compatible with surrounding neighborhood scale and financial feasibility. A potential program would be an independent living setting that complements the Meriwether but introduces a new-to-the-market building type.

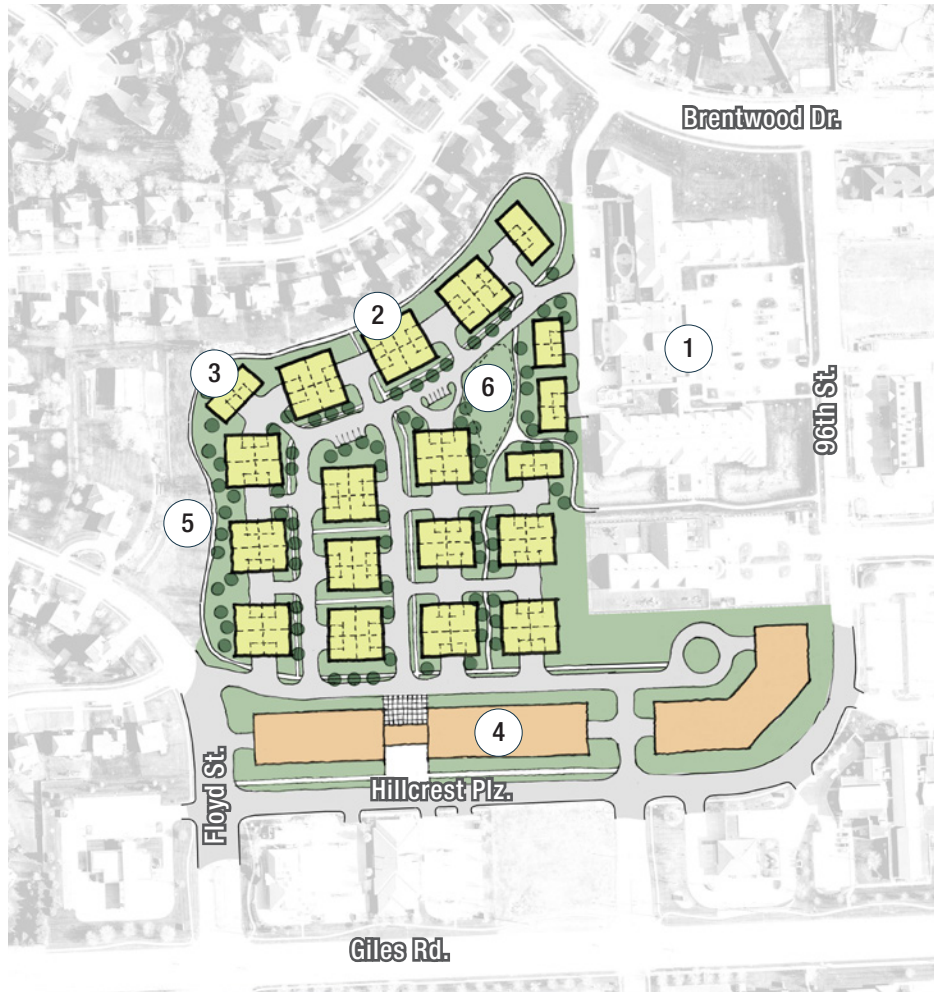
Site access and circulation also present significant possibilities and limitations. A main site entrance on 98th Plaza provides the most direct access to Giles Road but will likely be converted to right-in/right-out. Development here may also create demand for a signal at 99th Street. Hillcrest and 97th Plazas were clearly designed to provide local access parallel to but off the adjacent arterials and connect to both Floyd Street and Brentwood Drive. The Meriwether has service access off Brentwood Drive and this existing drive could also be used by a new development. An existing path links the site to S. 97th Plaza along the south edge of the Meriwether.

POLICY FRAMEWORK

The concept displayed on the subsequent page illustrates the following principles:

- **Independent living, single-level units at relatively high density.** Single-level units for older adults (55+) represent a significant need in the metropolitan market. While these units exist in villa projects, they tend to be built at relatively low-density and high cost. The solution shown here suggests a prototype sometimes described as “pinwheel” units, with common utility cores for economy, individual entrances and garages, and two exterior walls. This concept generates a gross density of about 9 units/acre.
- **Multifamily transition on the north side of Hillcrest Plaza.** More conventional multifamily buildings with three residential levels over parking would continue the density transition from single-family neighborhoods to the largely non-residential Giles corridor. This development would increase the overall site yield to about 18 units/acre, improving the project's economic performance.
- **Internal circulation.** Access to most of the attached units is provided through an internal network, with outlets to Hillcrest Plaza and Brentwood Drive via the Meriwether's service driveway. Most parking is provided in garages with a limited number of public guest spaces.





Hillcrest Plaza Development Features

- 1 - The Meriwether
- 2 - "Pinwheel" 4-unit Villa Homes
- 3 - Attached 2-unit Villa Homes
- 4 - Multifamily Buildings: 3 levels over parking
- 5 - Peripheral Path and Buffer
- 6 - Central Greenway

- **Path system throughout the development.** The project concept includes a continuous pedestrian path loop, including peripheral paths to the west and north through greenway buffers, an internal greenway on the eastern part of the site, and paths along the internal streets. The path loop is connected to public sidewalks and the existing walkway south of the Meriwether.



Villas at Asbury, Olathe, KS. An example of "pinwheel" 4-unit attached villa homes

The Original Nines

THE CONTEXT

The Original Nines are the first homes built in what would become La Vista. These homes sold for \$9,999 with \$200 down (which could be waived if the owner volunteered to paint the interior themselves). These homes were designed for easy access into home ownership. In other words, they were small and simply built. Some early residents even had issues with the quality of construction, including infrastructure and streets. Community leaders worked hard in the city's early years to address these issues and today the area remains an excellent opportunity for first-time home buyers. Like any housing that is now over 50 years old, units are needing upgrades and any delayed maintenance can evolve into structural issues. A number of the units have also been purchased by investors as rental properties. Generally, these units are maintained but there are instances of lack of maintenance/reinvestment.

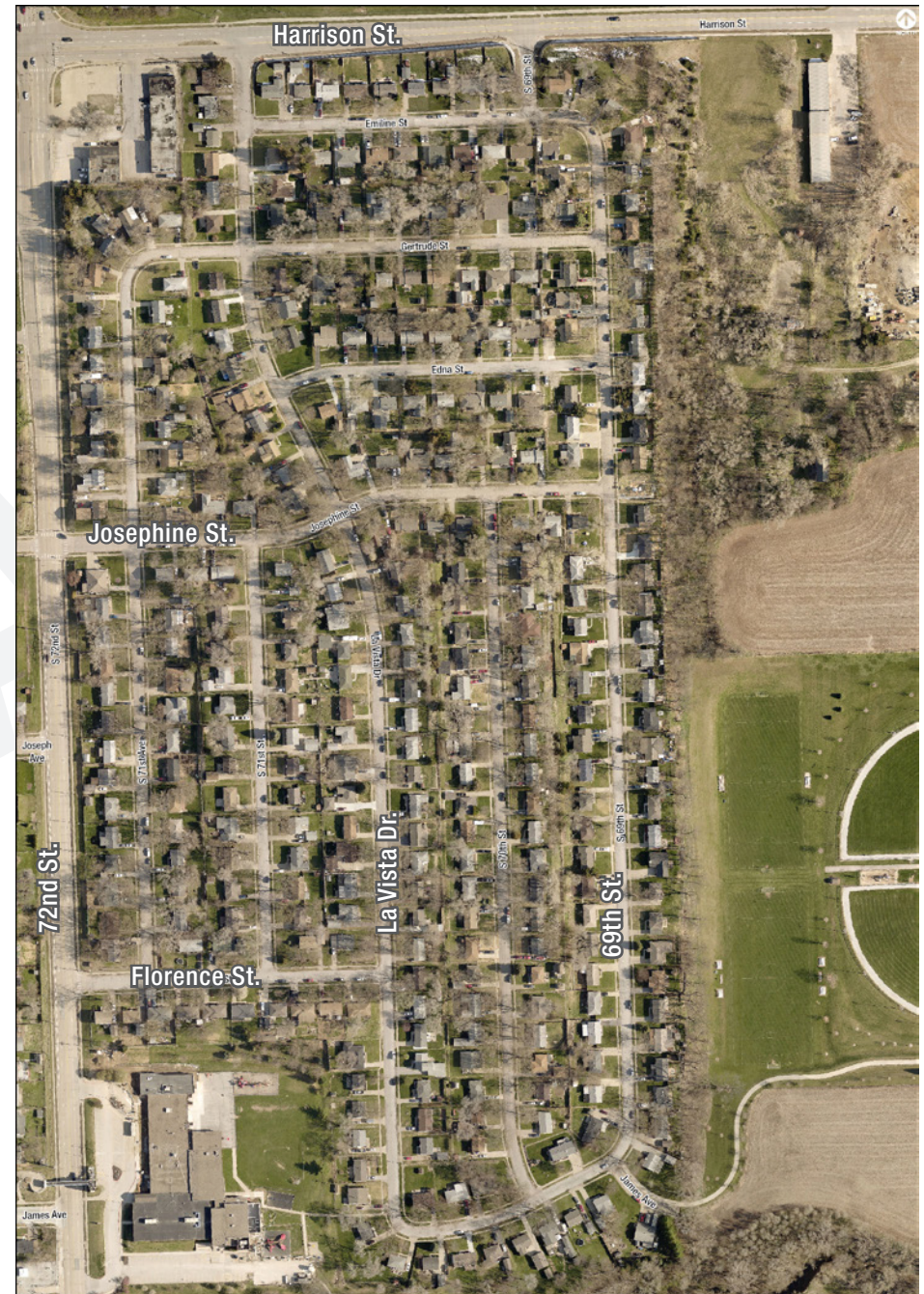
ANALYSIS

A community's best source of affordable housing can be found within its existing housing stock. A new unit cannot be built at the price points of those found in the Original Nines. For this reason, preservation and reinvestment in these units is important. Many have been purchased by investors who maintain them at vary levels. These units were built for young families looking for affordable ownership options. This history should be honored, and pride in ownership encouraged through programs and policies that support home ownership.

POLICY FRAMEWORK

The following policies should guide development of this area:

- **Preservation as the highest priority.** There are two main reasons that the city's highest priority should be preservation of these units.
 - » The homes are a piece of history and highlight the story of La Vista's founding and of the residential styles of the 1950s and 1960s.
 - » A community's best source of affordable owner-occupied housing is found within the existing housing stock. Homes that have recently sold in the area have averaged in the low \$200,000s or below, a price point the private market struggles to build today due to material and labor costs.
- **Variable infill development.** Demolition of homes should be avoided but in the cases where there are no alternatives, infill development should be encouraged. Within the interior of the subdivision, homes should be replaced with structures that fit the character of the surrounding units. This would mean single-story structures and garages that are off set from the main structure. Duplexes, attached single-family, or townhomes may be allowed along 72nd or Harrison streets. If done in the interior they need to be done at a scale and design that fits surrounding properties.



- **Continued infrastructure investments.** Continue to maintain and improve public facilities and infrastructure that support property owners' reinvestment.
- **Establishment of a rehab program.** City rehab programs are common in communities with older housing stock. They can be set up as grants, forgivable loans, or low interest loans. Historically, these have been funded through state or federal dollars, but these funds are often labor intensive to manage. For this reason, some communities have found more success in self-funded programs.
- **Non-profit partnerships.** There are several nonprofits in the metro area that work towards preservation of older housing with an aim toward entry level home ownership options. The city's role in this type of partnership could include waiving fees, rehab dollars, or assistance with securing units. These efforts should be aimed at increasing affordable ownership options and decreasing the number of absentee owners who put very little into the units.
- **Commercial redevelopment opportunity.** The older strip commercial center located at 72nd and Harrison should evolve overtime. Improvements or complete redevelopment should address the neighborhood as much as it addresses the intersection. Commercial uses should provide additional services and have good pedestrian access to the neighborhood.



City Centre Environs

THE CONTEXT

The City Centre Environs refers specifically to the areas just to the south of City Centre. Bordered by 84th Street on the west and Giles Road on the south. The area is dominated by a mixture of older and newer commercial uses. New users include a modern car wash and updated fast food. An older commercial strip center creates the eastern edge of the site. Overall, the area is very car oriented and unappealing for pedestrians or bicyclists. As City Centre is built out opportunities to evolve the City Centre Environs could occur.

ANALYSIS

The City Centre Environs is a heavily auto-oriented development. Trends indicate a preference towards more walkable environments, as is developing to the north. The market assessment indicated continued demand for commercial services, especially with added households and overall household growth. As demand for commercial services grows, areas like City Centre Environs should evolve to be more pedestrian friendly and connected to other uses.

POLICY FRAMEWORK

The following policies should guide development of this area:

- **Encourage mixed-uses.** Future developments should transition away from the single-use, freestanding structures to more mixed-use developments, creating an integrated feel with the development to the north.
- **83rd Avenue improvements.** Today 83rd Avenue does not read as a street but rather an access aisle to parking. Redevelopment of the area should better define the street with developments addressing the street rather than parking lots, clear pedestrian zones and improvements to the intersection with Giles Road.
- **Improved pedestrian environment.** Pedestrian circulation should be improved with connections to City Centre and adjoining neighborhoods.
- **84th Street Streetscape Plan.** The implementation of this plan should continue and wrap around to Giles on the southern end of the development.



La Vista Sports Complex

CONTEXT

The La Vista Sports Complex area sits on the far eastern edge of the city bounded by Harrison Street on the north, the Big Papio Creek on the east, Hartwood Road on the south, and the Original Nine's neighborhood to the west. The area can feel isolated from the rest of the city due to the few through east west streets and the Big Papio floodplain to the east. The few remaining developable sites have garnered some interest, but the city has a limited number of spaces to expand recreational offerings.

ANALYSIS

A recreation analysis was not completed as part of this study, but the land use inventory indicates that there are limited opportunities for expansion of park and recreation services. The ratio of park land to residents is not the lowest of those communities highlighted in Table 2.5 (page 26) but it is also not the highest and below the multi-city average. As a community's population grows it must maintain a good level of park services. If household size grows through the addition of new young families, park services will need to expand.

POLICY FRAMEWORK

The following policies should guide development of this area:

- **Complete a recreation analysis.** The city should complete an assessment of existing and future recreation needs before any final decisions are made on the future use of land adjoining the Sports Complex. Recreational interests are constantly evolving and understanding what current trends are and how the city is meeting those demands will be important to understanding future land needs.
- **Urban medium density residential.** For areas south of Thompson Creek and west of 66th Street, development should be at gross densities of six units per acre or higher and include single-family attached and small lot single-family units.
- **Urban higher density.** Facing Harrison, densities should be higher but fill a need not often found south of Harrison and west of 66th Street. This should include townhomes or row houses. With access to Harrison a mixed-use structure with neighborhood commercial or services on the lower level would expand options for the neighborhood.
- **Trail connectivity.** Future developments should have good quality pedestrian access that connects developments to G. Stanley Hall Elementary School, Parkview Boulevard, and the Big Papio Creek Trail.



CONCLUSIONS & NEXT STEPS

The La Vista Land Use Plan articulates many policy and regulation recommendations to help the community achieve the vision expressed by community leaders and residents in the Comprehensive Plan process. Much of the city's next steps will be driven by development proposals that are brought forward. This part of the process will be similar to historic patterns of working with staff and Planning Commission to align proposed developments with the city policies and regulations.

The biggest proactive step the city can take is making updates to the Zoning Ordinance.

Regulatory Updates

Sections or items within the city's zoning ordinance will need to be updated to remove barriers and facilitate the types of development the city desires. In several locations in this plan modifications to zoning districts were noted. Additionally, best practices should be applied to:

- » Parking requirements
- » Sign regulations
- » Home occupations
- » Accessory dwelling units
- » Dwelling size
- » Non-conforming lots

This list is a starting point from which each district should also be evaluated for best practices.

Annual Evaluation

The Planning Commission should conduct an annual evaluation of the comprehensive plan. This evaluation should include a written report that:

- » Summarizes key land use developments and decisions during the past year and relates them to the comprehensive plan.
- » Reviews actions taken by the city during the past year to implement plan recommendations.
- » Defines any changes that should be made in the comprehensive plan.

The plan should be viewed as a document that is actively used by the city as a source of information and guidance on policy and public investment.

ROLES AND RESPONSIBILITIES

The public, decision-makers, and staff must be concerned with the short and long-range consequences of present actions. Each of these groups plays a role in ensuring that decisions are made in the interest of good quality design and protecting the integrity of what makes La Vista an exceptional community.

RESPONSIBILITIES: ELECTED/APPOINTED OFFICIALS

Decision-makers, along with staff, must be conscious of the rights of others. Decisions should expand choices and opportunities for all persons, including the disadvantaged, and promote economic integration. Officials include the City Council and City Boards and Commissions.

RESPONSIBILITIES: CITY STAFF

City staff should continue to seek meaningful input from the public on the development of plans and programs. The La Vista Land Use Plan is rooted in a public engagement process, and thereby the goals and initiatives represent the aspirations of the community as a whole. Recommendations from staff to decision-makers should provide accurate information on planning issues to all affected persons and to governmental decision-makers.



MEETING MINUTES
CITY OF LA VISTA PLANNING COMMISSION
8116 PARK VIEW BOULEVARD, LA VISTA, NE 68128
P: (402) 593-6400

THURSDAY, DECEMBER 1, AT 6:30 P.M.

The City of La Vista Planning Commission held a meeting on Thursday, December 1, 2022, in the Harold “Andy” Anderson Council Chambers at La Vista City Hall, 8116 Park View Boulevard. Legal notice of the public meeting and hearing were posted, distributed, and published according to Nebraska law. Notice was simultaneously given to all members of the Planning Commission. All proceedings shown were taken while the convened meeting was open to the attendance of the public. The following Planning Commission members were present and absent:

PRESENT: Gayle Malmquist, Patrick Coghlan, Harold Sargus, Kevin Wetuski, Austin Partridge, John Gahan, and Mike Krzywicki

ABSENT: Jason Dale, Mike Circo, and Kathleen Alexander

STAFF PRESENT: Bruce Fountain, Community Development Director; Chris Solberg Deputy Community Development Director; Cale Brodersen, Assistant Planner; Meghan Engberg, Permit Technician; and Pat Dowse, City Engineer.

1. Call to Order

The meeting was called to order by Chairman Sargus at 6:30 p.m. Copies of the agenda and staff reports were made available to the public.

2. Approval of Joint Planning Commission & City Council Workshop November 14, 2022

Motion: Wetuski moved, seconded by Malmquist, to **approve** the November 14, 2022, minutes.

| | |
|---------------------|--|
| RESULT: | Motion carried 5-0-2 |
| MOTION BY: | Wetuski |
| SECONDED BY: | Malmquist |
| AYES: | Coghlan, Sargus, Krzywicki, Malmquist, Wetuski |
| NAYS: | None |
| ABSTAINED: | Gahan, Partridge |
| ABSENT: | Dale, Circo, Alexander |

Approval of Meeting Minutes from November 17, 2022

Motion: Gahan moved, seconded by Coghlan, to **approve** the November 17, 2022, minutes.

| | |
|---------------------|--|
| RESULT: | Motion carried 4-0-2 |
| MOTION BY: | Malmquist |
| SECONDED BY: | Coghlan |
| AYES: | Coghlan, Alexander, Malmquist, Partridge |
| NAYS: | None |
| ABSTAINED: | Gahan, Circo |
| ABSENT: | Wetuski, Dale, Sargus, Krzywicki |

3. Old Business

None.

4. New Business

A. Comprehensive Plan Amendments – Revised Future Land Use Plan and Future Land Use Map – City of La Vista

- i. **Staff Report – Bruce Fountain, Community Development Director:** Fountain provided a recap of the joint workshop that the Planning Commission had with City Council regarding the future land use plan and market analysis. He gave an overview of the plan and showed the changes to the future land use map that are suggested by the plan.

- ii. **Public Hearing: Sargus Opened the Public Hearing**

Dean Hokanson spoke about the lower Southport West property that he owns, and said that he is happy that multi-family housing is being considered as a potential option for that site. He said that his only concern with the plan is the potential of only allowing a lower-density project, which will not work economically for his partners. He stated that he is currently under contract with a multi-family housing developer that is interested in the site and feels that a higher-density project would be better for the overall Southport development. He also asked for clarification on the definition of Urban-Commercial.

Sargus closed the Public Hearing.

Fountain said the Urban-Commercial land use designation in the plan showed the density as being 12 plus, meaning that it could accommodate 12 units per acre or greater. It's setting 12 as the lower end and can go higher, depending on the project and development. He discussed the need identified in the plan for missing middle housing and that La Vista currently has a lack of housing choice and variety. We have more than our share of typical suburban apartment complexes, so we are looking for

something different , such as townhomes and condominiums and other types of missing middle housing options. He said the density will depend on what the overall project brings together, but that it could allow for higher density provided that it is not the typical suburban multi-family development.

Krzywicki referenced the packet that was sent out to Planning Commissioners that included the RDG presentation. He mentioned that it showed that in the last several years, an overwhelming number of the residential units that have been approved have been multifamily. He also discussed the balance of residential units in the City that are owner-occupied versus renter-occupied, and that La Vista has the highest percentage of nonowner-occupied residential in the area. He concluded that focusing on housing diversity, as discussed in the plan, could allow for more opportunities to develop owner-occupied housing.

Fountain said that the plan does not dictate whether newly constructed residential units must be for sale or for rent. City staff can encourage the development of homeownership opportunities, but it’s not something that can be regulated. He said the most important part is providing a variety of choices for housing. The demographic data shows that La Vista’s population is aging, and a lot of people don’t have an option for where to live in La Vista outside of their large home, so different housing options would allow for them to stay in La Vista, simultaneously opening up those single-family houses for new families.

Partridge said that he looks at the Land Use Plan through the lens of being the youngest member of the Commission, as someone who is starting a family, and as someone who has a lot of experience living in the large multi-unit apartment complexes. He expressed his excitement that the City is looking at those missing middle options for housing that would provide attractive housing options for people at all stages of their lives.

- iii. **Recommendation:** Coghlan moved, seconded by Malmquist, to recommend **approval** of the proposed amendments to the City’s Comprehensive Plan including a revised Future Land Use Plan and a revised Future Land Use Map.

| | |
|---------------------|--|
| RESULT: | Motion carried 7-0 |
| MOTION BY: | Coghlan |
| SECONDED BY: | Malmquist |
| AYES: | Coghlan, Malmquist, Partridge, Gahan, Wetuski, Sargus, Krzywicki |
| NAYS: | None |
| ABSTAINED: | None |
| ABSENT: | Dale, Circo, Alexander |

5. Comments from the Floor

None.

6. Comments from the Planning Commission

Wetuski said that this is his last meeting as a Planning Commission member before beginning his first term as a City Council member, and wanted to thank everyone.

1. Comments from Staff

2. Adjournment

Sargus adjourned the meeting at 6:54 p.m.

Reviewed by Planning Commission:

Planning Commission Secretary

Planning Commission Chair

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|---------------------------------|---|---|
| AMEND MUNICIPAL RETIREMENT PLAN | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES |

SYNOPSIS

A resolution has been prepared to approve an amendment to the retirement plan for municipal employees to provide that premium pay for all full-time and part-time employees is exempt from retirement contribution. The amendment also incorporates recent changes in federal laws.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

On September 6, 2022, the City Council approved temporary premium pay in an amount of one thousand dollars (\$1000) for each full-time employee, to include department head staff members, for actual hours worked at a rate of \$12.50 per hour between October 23, 2022 through December 17, 2022. Because the premium pay was excluded from compensation for purposes of determining or allocating contributions to benefit plans, it is necessary to be reflected via the recommended plan amendment. The amendment also incorporates recent changes in federal laws.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND THE CITY OF LA VISTA GENERAL EMPLOYEES DEFINED CONTRIBUTION PENSION PLAN AND TRUST, AND TO AUTHORIZE FURTHER ACTIONS.

BE IT RESOLVED:

SECTION 1. Pursuant to Nebraska Statutes, Section 19-3501, the Mayor and City Council of the City of La Vista maintain the City of La Vista General Employees Defined Contribution Pension Plan and Trust, embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law ("Plan").

SECTION 2. The Mayor and City Council are authorized and desire to amend the Plan for recent statutory changes, as set forth in the amendment presented with this Resolution titled "AMENDMENT (2022) SECURE, Bipartisan American Miners & CARES Act" ("Amendment").

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment, effective as of the date(s) specified therein.

SECTION 4. The Mayor is authorized to execute said Amendment on behalf of the City, and the City Administrator is authorized and directed to provide the same to the Trustee (for its written acceptance, if determined necessary or appropriate), and if directed in this resolution or otherwise determined necessary or advisable, to cause said Amendment to be submitted, together with such supporting data as may be necessary or advisable and applicable application fee, to the Internal Revenue Service for ruling as to whether the same complies with the pertinent provisions of the Internal Revenue Code of the United States and, in particular, Sections 401(a) and 501(a) thereof, with authority to make any changes in or to the Amendment and other Plan documents and take such further actions as the City Administrator determines necessary or appropriate to obtain a favorable ruling or maintain the qualified status of the Plan.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, MMC
City Clerk

**CITY OF LA VISTA
GENERAL EMPLOYEES DEFINED CONTRIBUTION
PENSION PLAN AND TRUST**

**AMENDMENT (2022)
(including SECURE, Bipartisan American Miners & CARES Acts)**

**ARTICLE 1
GENERAL**

- 1.1 **Adoption and effective date of Amendment.** Pursuant to Nebraska Statutes, Section 19-3501, the City of La Vista, Nebraska (“City” or “Employer”) maintains the City of La Vista General Employees Defined Contribution Pension Plan and Trust embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law (“Plan”). The Mayor and City Council are authorized and desire to amend the Plan as set forth in this Amendment, effective as of the dates specified below; provided, however, if a date is not specified, the provision shall be effective as of January 1, 2020.
- 1.2 **Superseding of inconsistent provisions.** Provisions of this Amendment apply notwithstanding any provisions of the Plan to the contrary. To further specify and not limit the foregoing sentence, this Amendment supersedes provisions of the Plan that are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment.
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any use of “Article”, “Section” or similar language in this Amendment is used for organizing the Amendment and not to reference to particular articles, sections, or parts of the Plan.
- 1.4 **Intention; Construction.** This Amendment amends the Plan for changes to applicable requirements governing retirement plans maintained by employers (“Changes to Applicable Requirements”), including without limitation, changes to applicable provisions of the Internal Revenue Code (“Code”) by the Further Consolidated Appropriations Act, 2020 (and specifically Divisions M and O of that Act, known as the Setting Every Community Up for Retirement Enhancement (“Secure”) Act of 2019 and the Bipartisan American Miners Act of 2019), and the Coronavirus Aid, Relief, and Economic Security (“Cares”) Act (2020), and for certain additional changes (“Other Changes”). All provisions of the Plan shall be deemed amended and modified consistent with the provisions of this Amendment and Changes to Applicable Requirements and Other Changes, and shall be subject to any applicable regulations or other guidance, as currently in effect or as adopted or amended from time to time.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the City restates the Plan, this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated and the restated plan document incorporates these provisions).

**ARTICLE 2
REQUIRED BEGINNING DATE**

- 2.1 **Application.** This Article 2 changes the applicable age for purposes of required minimum distributions (“RMDs”) under Internal Revenue Code (“Code”) Section 401(a)(9) from 70 ½ to 72 years of age. The changes made by this Article will apply to all plans, regardless of type, and shall be effective with regard to RMDs required to be made under Code Section 401(a)(9) after December 31, 2019, with respect to individuals who attain age 70 ½ after such date.
- 2.2 **Increase Age for Required Beginning Date to 72.** The required beginning date (“Required Beginning Date” or “RBD”) for purposes of RMDs pursuant to Code Section 401(a)(9) shall be April 1 of the calendar year following the later of :

- a. the calendar year in which the Participant attains age 72, or
- b. the calendar year in which the Participant retires.

Provided, however, Section 2.2(b) shall not apply in the case of a Participant who is a 5% owner. For this purpose, a Participant will be treated as a 5% owner if the Participant was a 5-percent owner (as defined in Code §416)) with respect to the Plan Year ending in the calendar year in which the Participant attains age 72.

- 2.3 **Spousal Distributions.** Subject to any right under the Plan to elect the 10-Year Rule, if a Participant dies prior to the Participant's RBD and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later, provided the Plan, immediately before this Amendment, provided for delay of RMD to a surviving spouse to December 31 of the calendar year in which the Participant would have attained age 70½.
- 2.4 **Definitions.** Terms used in this Article shall have the meaning ascribed to them in this Article, Amendment, or applicable provisions of Code Section 401(a)(9), regulations or other guidance.

ARTICLE 3 BENEFICIARY REQUIRED MINIMUM DISTRIBUTIONS

- 3.1 **Application.** This Article 3 will apply to all plans other than Defined Benefit Plans. This Article will not apply to existing qualified annuities described in SECURE Act §401(b)(4)(B).
- 3.2 **Effective Date.** Except as otherwise provided in in this Article, this Article will apply to distributions with respect to Participants who die on or after (i) January 1, 2020, if the Plan is not a governmental or collectively bargained plan, (ii) January 1, 2022, if the Plan is a governmental plan (as defined in Code §414(d)), and (iii) the date determined in SECURE Act §401(b)(2), if the Plan is a collectively-bargained plan,. Section 3.5 provides special rules with respect to certain Accounts under the Plan of Participants who died before the Effective Date of this Article.
- 3.3 **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:

(a) **No Designated Beneficiary** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule pursuant to Code Section 401(a)(9)(B)(ii) and applicable regulations and other guidance.

(b) **Eligible Designated Beneficiary.** If the distributee of a Participant's Account under the Plan is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule pursuant to Code Section 401(a)(9)(B)(iii), subject to any election of the 10-Year Rule if allowed under the terms of the Plan. For purposes of such an election, if the Plan immediately before this Amendment provided for a right to elect between the 5-Year Rule and Life Expectancy Rule, such provisions are amended to provide for an Eligible Designated Beneficiary to elect the 10-Year Rule in lieu of the Life Expectancy Rule, and if elected, the 10-Year Rule shall apply with respect to distributions pursuant to this Section 3.3(b). In the absence of an election, the Plan's provisions with regard to the Life Expectancy Rule will apply. An election of the 10-Year Rule must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(c) **Other Designated Beneficiaries.** If the beneficiary of the Participant's Account under the Plan is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the beneficiary's entire interest will be distributed under the 10-Year Rule.

(d) **10-Year Rule.** If distribution of a deceased Participant's Account under the Plan is subject to the "10-Year Rule," then distribution of the Participant's entire Account will be completed by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

3.4 **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death using the Life Expectancy Rule, as and to the extent provided by applicable regulations and other guidance. If the Beneficiary is a Designated Beneficiary who is not an Eligible Designated Beneficiary, the Plan will distribute the remaining interest in full no later than December 31 of the tenth year following the year of the Participant's death.

3.5 **Beneficiary Death.** If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before the Beneficiary's entire interest in the Participant's Account is distributed, the Plan will distribute the remainder of the Beneficiary's interest in full no later than December 31 of the 10th year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article, and the Participant's designated beneficiary died after such Effective Date but prior to receiving full distribution of the beneficiary's interest, the Plan pursuant to SECURE Act §401(b)(5) will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.

3.6 **Age of Majority.** A child of the Participant who is receiving distributions under the Life Expectancy rule shall cease to be an Eligible Designated Beneficiary as of the date the child reaches the age of Majority and any remainder of the child's interest in the Participant's Account under the Plan shall be distributed within 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary such as a disabled or chronically ill individual.

3.7 **Definitions; operating rules.** The following definitions and operating rules apply for this Article:

(a) An "RMD" is a Required Minimum Distribution as described in Code §401(a)(9).

(b) A Participant's "RBD" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C) and the Plan and corresponding provisions of Article 2 of this Amendment.

(c) "Designated Beneficiary" means any individual who is designated by a Participant or Plan terms as a beneficiary of the Participant's Account under the Plan and who is a designated beneficiary under Code §401(a)(9) and applicable regulations or other guidance thereunder.

(d) "Eligible Designated Beneficiary" means a Designated Beneficiary of a Participant who is (1) the Participant's surviving spouse, (2) the Participant's child who has not reached the age of Majority, (3) disabled within the meaning of Code §72(m)(7), (4) chronically ill within the meaning of Code §7702B(c)(2), provided the requirements of subsection 7702B(c)(2)(A)(i) shall be treated as met if a certification is provided that, as of such date, the period of inability described in such subsection is an indefinite one which is reasonably expected to be lengthy in nature, or (5) any other individual who is not described in (1) through (4) of this Section 3.7(d) and is not more than 10 years younger than the Participant. Whether a Designated Beneficiary is an Eligible Designated Beneficiary shall be determined as of the date of the Participant's death. Certain trusts (or parts of certain trusts) may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).

(e) "Majority" for purposes of the "age of Majority" of a Participant's child shall be determined under Code §401(a)(9)(F) and applicable regulations or other guidance issued thereunder.

(f) The "Life Expectancy Rule" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.

(g) The “**5-Year Rule**” for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.

(h) The “**10-Year Rule**” is described in Section 3.3(d).

(i) **Separate share rule.** A Participant’s Account under the Plan and a Beneficiary’s interest in that Account will be applied separately as provided in Code §401(a)(9)(H)(iv), or as provided by provisions of Treas. Reg. §1.401(a)(9)-8, Q&A 2 or 3 that are not contrary to Code §401(a)(9)(H)(iv) or other applicable laws or regulations.

ARTICLE 4

SUSPENSION OF 2020 RMDs; EXTENSION OF 5-YEAR RULE FOR RMDs – CARES §2203

4.1 **Application.** This Article applies only to defined contribution plans, which generally are retirement plans adopted by an employer pursuant to Code Section 401(a) or 403(b) that are not defined benefit plans. This Article does not apply to defined benefit plans. It is effective January 1, 2020 pursuant to Code Section 401(a)(9)(I).

4.2 **Suspension of 2020 RMDs; Extension of 5-Year Rule by One Year.**

(a) **Suspension of Required Minimum Distributions for 2009.** A Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 1, 2021) but for the enactment of Code Section 401(a)(9)(I) (“2020 RMDs”), and who would have satisfied that requirement by receiving distributions that are either (i) equal to the 2020 RMDs or (ii) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s Designated Beneficiary, or for a period of at least 10 years (“Extended 2020 RMDs”), will not receive those distributions for 2020 unless the Participant or Beneficiary, as the case may be, chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence; and

(b) **Direct Rollovers.** For purposes of applying the direct rollover provisions of the Plan, a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(I).

4.3 **Extension of 5-Year Rule.** The 5-year period described in Code Section 401(a)(9)(B)(ii) shall be determined without regard to calendar year 2020, resulting in an additional year to distribute RMDs under the 5-Year Rule, unless a beneficiary otherwise elects to the contrary. A beneficiary of an Applicable Participant Account may elect to include calendar year 2020 for purposes of the 5-Year Rule and not extend the deadline to distribute the account by an additional year. If a beneficiary fails make an election to extend the distribution, calendar year 2020 will not be counted and the 5-Year Rule for RMDs of the Applicable Participant Account will be extended an additional year.

4.4 **Definitions.** The following definitions apply for this Article:

(a) “**RMDs**” means required minimum distributions described in Code §401(a)(9).

(b) The “**5-Year Rule**” for distributing RMDs is described in Code §401(a)(9)(B)(ii) and corresponding Plan provisions .

(c) “**Applicable Participant Account**” means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

ARTICLE 5

UPDATED LIFE EXPECTANCY TABLES – TREAS. REG. §1.401(a)(9)-9

- 5.1 **Application.** This Article shall apply to all plans and is effective for distribution calendar years beginning on or after January 1, 2022.
- 5.2 **New RMD Tables.** Any Plan provisions referencing or requiring use of any life expectancy table under Code Section 401(a)(9) or Treas. Reg. §1.401(a)(9) shall mean the tables published and adjusted from time to time under Treas. Reg. §1.401(a)(9)-9.

ARTICLE 6 DIFFICULTY OF CARE PAYMENTS – SECURE §116

- 6.1 **Application.** This Article will apply only if the Plan is a Defined Contribution Plan or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2015. For purposes of this Amendment, “Defined Contribution Plan” means a plan that is intended to satisfy the requirements of Code Section 401(a), except for a defined benefit plan.
- 6.2 **Inclusion in 415 Compensation.** Participant Compensation for purposes of determining the limit on annual additions under Code §415(c)(1)(B) shall include any Difficulty of Care Payments any Employer makes to a Participant. Any Difficulty of Care Payments shall be included for purposes of making any contributions or allocations under the Plan if the Plan expressly provides that Difficulty of Care Payments will be included for such purposes.
- 6.3 **Definition.** A “Difficulty of Care Payment” is a payment described in Code §131 made in connection with qualified foster individuals.

ARTICLE 7 403(b) TERMINATION DISTRIBUTIONS – SECURE §110

- 7.1 **Application.** This Article only shall apply to the Plan if it is intended to satisfy the requirements of Code Section 403(b) Plan. It is effective January 1, 2009.
- 7.2 **Custodial Accounts.** In connection with distributions upon termination of the Plan, the Plan may treat the delivery of a custodial account as a distribution, pursuant to Rev. Rul. 2020-23.

ARTICLE 8 OTHER

- I. Subsection 7.12.1(c) of the Plan is deleted and replaced in its entirety with following:
- “(c) Distributee: A distributee includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2008, a distributee also includes the Participant’s nonspouse Beneficiary designated under the Plan. In the case of a nonspouse designated Beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA established on behalf of the nonspouse designated Beneficiary and treated as an inherited IRA pursuant to Code section 402(c)(11).”
- II. Effective October 1, 2022, Premium Pay paid to Employees pursuant to City Ordinance No. 1458 for actual hours worked during the time period beginning October 23, 2022 through December 17, 2022 shall be excluded from compensation for purposes of determining or allocating contributions or benefits under the Plan.

- III. Effective as of January 1, 2023, the following is added at the end of subsection B.(5) of the Plan Adoption Agreement:

“If any Employee who is participating in this Plan becomes eligible and begins participating in the City of La Vista Management Exempt Employees Defined Contribution Plan and Trust (“Management Exempt Employees Plan”) pursuant to subsection B.(5)(h) of the Management Exempt Employees Plan Adoption Agreement, (i) the Employee shall cease participating in this Plan pursuant to subsection B.(5) above, effective immediately before the Employee begins participating in the Management Exempt Employees Plan, (ii) all vested or nonvested amounts credited to Accounts for the benefit of the Employee under this Plan shall be transferred to and become part of the Accounts held for the benefit of the Employee under the Management Exempt Employees Plan, and (iii) such transferred amounts immediately shall be subject to and governed by the terms and conditions of such Management Exempt Employees Plan, as amended from time to time. Notwithstanding anything in this Plan or the Management Exempt Employees Plan to the contrary, the accrued benefit of any Employee under this Plan, and the nonforfeitable interest of the Employee in such benefit, shall not be decreased solely by reason of the Employee’s commencement of participation under the Management Exempt Employees Plan or transfer of amounts or Accounts pursuant to this paragraph.”

This Amendment is hereby executed this 20th day of December 2022.

CITY OF LA VISTA, a Nebraska municipality

By: _____
Douglas Kindig, Mayor

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|------------------------------|---|---|
| AMEND POLICE RETIREMENT PLAN | RESOLUTION ◆ ORDINANCE RECEIVE/FILE | KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES |

SYNOPSIS

An ordinance has been prepared to approve an amendment to the retirement plan for police employees to provide that premium pay for all full-time and part-time employees is exempt from retirement contribution. The amendment also incorporates recent changes in federal laws.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

On September 6, 2022, the City Council approved temporary premium pay in an amount of one thousand dollars (\$1000) for each full-time employee, to include department head staff members, for actual hours worked at a rate of \$12.50 per hour between October 23, 2022 through December 17, 2022. Because the premium pay was excluded from compensation for purposes of determining or allocating contributions to benefit plans, it is necessary to be reflected via the recommended plan amendment. The amendment also incorporates recent changes in federal laws.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND THE CITY OF LA VISTA POLICE OFFICERS RETIREMENT PLAN AND TRUST; TO AUTHORIZE FURTHER ACTIONS; AND TO PROVIDE FOR REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY AND THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Pursuant to Nebraska Statutes, Sections 16-1001 through and including 16-1019, the City of La Vista maintains the City of La Vista Police Officers Retirement Plan and Trust embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law ("Plan").

SECTION 2. The Mayor and City Council are authorized and desire to amend the Plan for recent statutory changes, as set forth in the amendment presented with this Ordinance titled "AMENDMENT (2022) SECURE, Bipartisan American Miners & CARES Act" ("Amendment").

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment, effective on the date(s) set forth therein.

SECTION 4. The Mayor is authorized to execute said Amendment on behalf of the City, and the City Administrator is authorized and directed to provide the same to the Trustee (for its written acceptance, if determined necessary or appropriate), and if directed in this Ordinance or otherwise determined necessary or advisable, to cause said Amendment to be submitted, together with such supporting data as may be necessary or advisable and applicable application fee, to the Internal Revenue Service for ruling as to whether the same complies with the pertinent provisions of the Internal Revenue Code of the United States and, in particular, Sections 401(a) and 501(a) thereof, with authority to make any changes in or to the Amendment and other Plan documents and take such further actions as the City Administrator determines necessary or appropriate to obtain a favorable ruling or maintain the qualified status of the Plan.

SECTION 5. All ordinances and parts of ordinances as previously enacted to the extent in conflict with this Ordinance or any part hereof are hereby repealed.

SECTION 6. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 7. This Ordinance shall be in force and take effect from and after passage, approval and publication as provided by law.

Ordinance No.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

**CITY OF LA VISTA
POLICE OFFICERS RETIREMENT PLAN AND TRUST**

**AMENDMENT (2022)
SECURE, Bipartisan American Miners & CARES Acts**

**ARTICLE 1
GENERAL**

- 1.1 **Adoption and effective date of Amendment.** Pursuant to Nebraska Statutes, Sections 16-1001 through and including 16-1019, the City of La Vista, Nebraska (“City” or “Employer”) maintains the City of La Vista Police Officers Retirement Plan and Trust embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law (“Plan”). The Mayor and City Council are authorized and desire to amend the Plan as set forth in this Amendment, effective as of the dates specified below; provided, however, if a date is not specified, the provision shall be effective as of January 1, 2020.
- 1.2 **Superseding of inconsistent provisions.** Provisions of this Amendment apply notwithstanding any provisions of the Plan to the contrary. To further specify and not limit the foregoing sentence, this Amendment supersedes provisions of the Plan that are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment.
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any use of “Article”, “Section” or similar language in this Amendment is used for organizing the Amendment and not to reference to particular articles, sections, or parts of the Plan.
- 1.4 **Intention; Construction.** A principal purpose of this Amendment is to amend the Plan for changes to applicable requirements governing retirement plans maintained by employers (“Changes to Applicable Requirements”), including without limitation, changes to applicable provisions of the Internal Revenue Code (“Code”) by the Further Consolidated Appropriations Act, 2020 (and specifically Divisions M and O of that Act, known as the Setting Every Community Up for Retirement Enhancement Act of 2019 and the Bipartisan American Miners Act of 2019), and the Coronavirus Aid, Relief, and Economic Security Act (2020). All provisions of the Plan shall be deemed amended and modified consistent with the provisions of this Amendment and Changes to Applicable Requirements, and shall be subject to any applicable regulations or other guidance, as currently in effect or as adopted or amended from time to time.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the City restates the Plan, this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated and the restated plan document incorporates these provisions).

**ARTICLE 2
REQUIRED BEGINNING DATE**

- 2.1 **Application.** This Article 2 changes the applicable age for purposes of required minimum distributions (“RMDs”) under Internal Revenue Code (“Code”) Section 401(a)(9) from 70 ½ to 72 years of age. The changes made by this Article will apply to all plans, regardless of type, and shall be effective with regard to RMDs required to be made under Code Section 401(a)(9) after December 31, 2019, with respect to individuals who attain age 70 ½ after such date.
- 2.2 **Increase Age for Required Beginning Date to 72.** The required beginning date (“Required Beginning Date” or “RBD”) for purposes of RMDs pursuant to Code Section 401(a)(9) shall be April 1 of the calendar year following the later of :
 - a. the calendar year in which the Participant attains age 72, or
 - b. the calendar year in which the Participant retires.

Provided, however, Section 2.2(b) shall not apply in the case of a Participant who is a 5% owner. For this purpose, a Participant will be treated as a 5% owner if the Participant was a 5-percent owner (as defined in Code §416)) with respect to the Plan Year ending in the calendar year in which the Participant attains age 72.

- 2.3 **Spousal Distributions.** Subject to any right under the Plan to elect the 10-Year Rule, if a Participant dies prior to the Participant's RBD and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later, provided the Plan, immediately before this Amendment, provided for delay of RMD to a surviving spouse to December 31 of the calendar year in which the Participant would have attained age 70½.
- 2.4 **Definitions.** Terms used in this Article shall have the meaning ascribed to them in this Article, Amendment, or applicable provisions of Code Section 401(a)(9), regulations or other guidance.

ARTICLE 3 BENEFICIARY REQUIRED MINIMUM DISTRIBUTIONS

- 3.1 **Application.** This Article 3 will apply to all plans other than Defined Benefit Plans. This Article will not apply to existing qualified annuities described in SECURE Act §401(b)(4)(B).
- 3.2 **Effective Date.** Except as otherwise provided in in this Article, this Article will apply to distributions with respect to Participants who die on or after (i) January 1, 2020, if the Plan is not a governmental or collectively bargained plan, (ii) January 1, 2022, if the Plan is a governmental plan (as defined in Code §414(d)), and (iii) the date determined in SECURE Act §401(b)(2), if the Plan is a collectively-bargained plan,. Section 3.5 provides special rules with respect to certain Accounts under the Plan of Participants who died before the Effective Date of this Article.
- 3.3 **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:

(a) **No Designated Beneficiary** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule pursuant to Code Section 401(a)(9)(B)(ii) and applicable regulations and other guidance.

(b) **Eligible Designated Beneficiary.** If the distributee of a Participant's Account under the Plan is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule pursuant to Code Section 401(a)(9)(B)(iii), subject to any election of the 10-Year Rule if allowed under the terms of the Plan. For purposes of such an election, if the Plan immediately before this Amendment provided for a right to elect between the 5-Year Rule and Life Expectancy Rule, such provisions are amended to provide for an Eligible Designated Beneficiary to elect the 10-Year Rule in lieu of the Life Expectancy Rule, and if elected, the 10-Year Rule shall apply with respect to distributions pursuant to this Section 3.3(b). In the absence of an election, the Plan's provisions with regard to the Life Expectancy Rule will apply. An election of the 10-Year Rule must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(c) **Other Designated Beneficiaries.** If the beneficiary of the Participant's Account under the Plan is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the beneficiary's entire interest will be distributed under the 10-Year Rule.

(d) **10-Year Rule.** If distribution of a deceased Participant's Account under the Plan is subject to the "10-Year Rule," then distribution of the Participant's entire Account will be completed by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

- 3.4 **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death using the Life Expectancy Rule, as and to the extent provided by applicable regulations and other guidance. If the Beneficiary is a Designated Beneficiary who is not an Eligible Designated Beneficiary, the Plan will distribute the remaining interest in full no later than December 31 of the tenth year following the year of the Participant's death.
- 3.5 **Beneficiary Death.** If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before the Beneficiary's entire interest in the Participant's Account is distributed, the Plan will distribute the remainder of the Beneficiary's interest in full no later than December 31 of the 10th year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article, and the Participant's designated beneficiary died after such Effective Date but prior to receiving full distribution of the beneficiary's interest, the Plan pursuant to SECURE Act §401(b)(5) will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.
- 3.6 **Age of Majority.** A child of the Participant who is receiving distributions under the Life Expectancy rule shall cease to be an Eligible Designated Beneficiary as of the date the child reaches the age of Majority and any remainder of the child's interest in the Participant's Account under the Plan shall be distributed within 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary such as a disabled or chronically ill individual.
- 3.7 **Definitions; operating rules.** The following definitions and operating rules apply for this Article:
- (a) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
 - (b) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C) and the Plan and corresponding provisions of Article 2 of this Amendment.
 - (c) "**Designated Beneficiary**" means any individual who is designated by a Participant or Plan terms as a beneficiary of the Participant's Account under the Plan and who is a designated beneficiary under Code §401(a)(9) and applicable regulations or other guidance thereunder.
 - (d) "**Eligible Designated Beneficiary**" means a Designated Beneficiary of a Participant who is (1) the Participant's surviving spouse, (2) the Participant's child who has not reached the age of Majority, (3) disabled within the meaning of Code §72(m)(7), (4) chronically ill within the meaning of Code §7702B(c)(2), provided the requirements of subsection 7702B(c)(2)(A)(i) shall be treated as met if a certification is provided that, as of such date, the period of inability described in such subsection is an indefinite one which is reasonably expected to be lengthy in nature, or (5) any other individual who is not described in (1) through (4) of this Section 3.7(d) and is not more than 10 years younger than the Participant. Whether a Designated Beneficiary is an Eligible Designated Beneficiary shall be determined as of the date of the Participant's death. Certain trusts (or parts of certain trusts) may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).
 - (e) "**Majority**" for purposes of the "age of Majority" of a Participant's child shall be determined under Code §401(a)(9)(F) and applicable regulations or other guidance issued thereunder.
 - (f) The "**Life Expectancy Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.
 - (g) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.
 - (h) The "**10-Year Rule**" is described in Section 3.3(d).
 - (i) **Separate share rule.** A Participant's Account under the Plan and a Beneficiary's interest in that Account will be applied separately as provided in Code §401(a)(9)(H)(iv), or as provided by provisions of Treas. Reg.

§1.401(a)(9)-8, Q&A 2 or 3 that are not contrary to Code §401(a)(9)(H)(iv) or other applicable laws or regulations.

ARTICLE 4

SUSPENSION OF 2020 RMDs; EXTENSION OF 5-YEAR RULE FOR RMDs – CARES §2203

- 4.1 **Application.** This Article applies only to defined contribution plans, which generally are retirement plans adopted by an employer pursuant to Code Section 401(a) or 403(b) that are not defined benefit plans. This Article does not apply to defined benefit plans. It is effective January 1, 2020 pursuant to Code Section 401(a)(9)(I).
- 4.2 **Suspension of 2020 RMDs; Extension of 5-Year Rule by One Year.**
- (a) **Suspension of Required Minimum Distributions for 2020.** A Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 1, 2021) but for the enactment of Code Section 401(a)(9)(I) (“2020 RMDs”), and who would have satisfied that requirement by receiving distributions that are either (i) equal to the 2020 RMDs or (ii) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s Designated Beneficiary, or for a period of at least 10 years (“Extended 2020 RMDs”), will not receive those distributions for 2020 unless the Participant or Beneficiary, as the case may be, chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence; and
 - (b) **Direct Rollovers.** For purposes of applying the direct rollover provisions of the Plan, a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(I).
- 4.3 **Extension of 5-Year Rule.** The 5-year period described in Code Section 401(a)(9)(B)(ii) shall be determined without regard to calendar year 2020, resulting in an additional year to distribute RMDs under the 5-Year Rule, unless a beneficiary otherwise elects to the contrary. A beneficiary of an Applicable Participant Account may elect to include calendar year 2020 for purposes of the 5-Year Rule and not extend the deadline to distribute the account by an additional year. If a beneficiary fails to make an election to extend the distribution, calendar year 2020 will not be counted and the 5-Year Rule for RMDs of the Applicable Participant Account will be extended an additional year.
- 4.4 **Definitions.** The following definitions apply for this Article:
- (a) **“RMDs”** means required minimum distributions described in Code §401(a)(9).
 - (b) The **“5-Year Rule”** for distributing RMDs is described in Code §401(a)(9)(B)(ii) and corresponding Plan provisions.
 - (c) **“Applicable Participant Account”** means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

ARTICLE 5

UPDATED LIFE EXPECTANCY TABLES – TREAS. REG. §1.401(a)(9)-9

- 5.1 **Application.** This Article shall apply to all plans and is effective for distribution calendar years beginning on or after January 1, 2022.
- 5.2 **New RMD Tables.** Any Plan provisions referencing or requiring use of any life expectancy table under Code Section 401(a)(9) or Treas. Reg. §1.401(a)(9) shall mean the tables published and adjusted from time to time under Treas. Reg. §1.401(a)(9)-9.

ARTICLE 6
DIFFICULTY OF CARE PAYMENTS – SECURE §116

- 6.1 **Application.** This Article will apply only if the Plan is a Defined Contribution Plan or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2015. For purposes of this Amendment, “Defined Contribution Plan” means a plan that is intended to satisfy the requirements of Code Section 401(a), except for a defined benefit plan.
- 6.2 **Inclusion in 415 Compensation.** Participant Compensation for purposes of determining the limit on annual additions under Code §415(c)(1)(B) shall include any Difficulty of Care Payments any Employer makes to a Participant. Any Difficulty of Care Payments shall be included for purposes of making any contributions or allocations under the Plan if the Plan expressly provides that Difficulty of Care Payments will be included for such purposes.
- 6.3 **Definition.** A “**Difficulty of Care Payment**” is a payment described in Code §131 made in connection with qualified foster individuals.

ARTICLE 7
403(b) TERMINATION DISTRIBUTIONS – SECURE §110

- 7.1 **Application.** This Article only shall apply to the Plan if it is intended to satisfy the requirements of Code Section 403(b) Plan. It is effective January 1, 2009.
- 7.2 **Custodial Accounts.** In connection with distributions upon termination of the Plan, the Plan may treat the delivery of a custodial account as a distribution, pursuant to Rev. Rul. 2020-23.

ARTICLE 8
OTHER

- I. Subsection 7.12.1(c) of the Plan is deleted and replaced in its entirety with following:
- “(c) Distributee: A distributee includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2008, a distributee also includes the Participant’s nonspouse Beneficiary designated under the Plan. In the case of a nonspouse designated Beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA established on behalf of the nonspouse designated Beneficiary and treated as an inherited IRA pursuant to Code section 402(c)(11).”
- II. Effective October 1, 2022, Premium Pay paid to Employees pursuant to City Ordinance No. 1458 for actual hours worked during the time period beginning October 23, 2022 through December 17, 2022 shall be excluded from compensation for purposes of determining or allocating contributions or benefits under the Plan.

This Amendment is hereby executed this 20th day of December 2022.

CITY OF LA VISTA, a Nebraska municipality

By: _____
Douglas Kindig, Mayor

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|---|---|---|
| AMEND THE CITY ADMINISTRATOR'S MUNICIPAL RETIREMENT PLAN | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES |

SYNOPSIS

A resolution has been prepared to approve an amendment to the City Administrator's retirement plan to be renamed the City of La Vista Management Exempt Employees Defined Contribution Plan and Trust, add management exempt employees, and incorporate recent changes in federal laws.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

Currently, the City has a separate retirement plan for the City Administrator and the Assistant City Administrator (City Administrator's Retirement Plan). In this plan, the plan recipients are 100% vested immediately. We believe that this is an element of our benefit package where we need to be more competitive, especially in the recruitment for executive level positions. Accordingly, staff is recommending an amendment to add other executive level managers to the plan and rename it the Management Exempt Employees Plan. This would include the following positions: Director of Administrative Services, City Clerk, Finance Director, Director of Public Works, Community Development Director, City Engineer, Human Resources Director, Library Director and Recreation Director.

In addition, on September 6, 2022, the City Council approved temporary premium pay in an amount of one thousand dollars (\$1000) for each full-time employee, to include department head staff members, for actual hours worked at a rate of \$12.50 per hour between October 23, 2022 through December 17, 2022. Because the premium pay was excluded from compensation for purposes of determining or allocating contributions to benefit plans, it is necessary to be reflected via the recommended plan amendment. The amendment also incorporates recent changes in federal laws. (The City Administrator was not including in premium pay). It is recommended that the vesting schedule for all employees be reviewed and benchmarked to ensure market competitiveness.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO AMEND THE CITY OF LA VISTA CITY ADMINISTRATORS' DEFINED CONTRIBUTION PENSION PLAN AND TRUST, AND TO AUTHORIZE FURTHER ACTIONS.

BE IT RESOLVED:

SECTION 1. Pursuant to Nebraska Statutes, Section 19-3501, the Mayor and City Council of the City of La Vista maintain the City of La Vista City Administrators' Defined Contribution Pension Plan and Trust, embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments ("Plan").

SECTION 2. The Mayor and City Council are authorized and desire to amend the Plan for recent statutory and other changes, as set forth in the amendment presented with this Resolution titled "AMENDMENT (2022) (including SECURE, Bipartisan American Miners & CARES Acts)" ("Amendment").

SECTION 3. The Mayor and City Council do hereby approve and adopt said Amendment, effective as of the date(s) specified therein.

SECTION 4. That the Mayor is authorized to execute said Amendment on behalf of the City, and the City Administrator is authorized and directed to provide the same to the Trustee (for its written acceptance, if determined necessary or appropriate), and if directed in this resolution or the City Administrator otherwise determines necessary or advisable, to cause said Amendment to be submitted, together with such supporting documents and data as may be necessary or advisable and applicable application fee, to the Internal Revenue Service for ruling as to whether the same complies with the pertinent provisions of the Internal Revenue Code of the United States and, in particular, Sections 401(a) and 501(a) thereof, with authority to make any changes in or to the designations, elections or provisions under or of said Amendment or any other plan documents and take such further actions as the City Administrator determines necessary or appropriate to obtain a favorable ruling or as otherwise required for the qualified status of the Plan.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

K:\APPS\City Hall\22 FINAL RESOLUTIONS\22. La Vista - City
Administrators - Basic Plan Amendment 12.20.2022.Docx

**CITY OF LA VISTA
CITY ADMINISTRATORS' DEFINED CONTRIBUTION
PENSION PLAN AND TRUST (renamed the City of La Vista Management Exempt
Employees Defined Contribution Plan and Trust)**

**AMENDMENT (2022)
(including SECURE, Bipartisan American Miners & CARES Acts)**

**ARTICLE 1
GENERAL**

- 1.1 **Adoption and effective date of Amendment.** Pursuant to Nebraska Statutes, Section 19-3501, the City of La Vista, Nebraska ("City" or "Employer") maintains the City of La Vista City Administrators' Defined Contribution Pension Plan and Trust embodied in plan documents including an adoption agreement and basic plan document constituting an integral part thereof, as well as various amendments required by applicable law ("Plan"). The Mayor and City Council are authorized and desire to amend the Plan as set forth in this Amendment, effective as of the dates specified below; provided, however, if a date is not specified, the provision shall be effective as of January 1, 2020.
- 1.2 **Superseding of inconsistent provisions.** Provisions of this Amendment apply notwithstanding any provisions of the Plan to the contrary. To further specify and not limit the foregoing sentence, this Amendment supersedes provisions of the Plan that are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment.
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any use of "Article", "Section" or similar language in this Amendment is used for organizing the Amendment and not to reference to particular articles, sections, or parts of the Plan.
- 1.4 **Intention; Construction.** This Amendment amends the Plan for changes to applicable requirements governing retirement plans maintained by employers ("Changes to Applicable Requirements"), including without limitation, changes to applicable provisions of the Internal Revenue Code ("Code") by the Further Consolidated Appropriations Act, 2020 (and specifically Divisions M and O of that Act, known as the Setting Every Community Up for Retirement Enhancement ("Secure") Act of 2019 and the Bipartisan American Miners Act of 2019), and the Coronavirus Aid, Relief, and Economic Security ("Cares") Act (2020), and for certain additional changes ("Other Changes"). All provisions of the Plan shall be deemed amended and modified consistent with the provisions of this Amendment and Changes to Applicable Requirements and Other Changes, and shall be subject to any applicable regulations or other guidance, as currently in effect or as adopted or amended from time to time.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the City restates the Plan, this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated and the restated plan document incorporates these provisions).

**ARTICLE 2
REQUIRED BEGINNING DATE**

- 2.1 **Application.** This Article 2 changes the applicable age for purposes of required minimum distributions ("RMDs") under Internal Revenue Code ("Code") Section 401(a)(9) from 70 ½ to 72 years of age. The changes made by this Article will apply to all plans, regardless of type, and shall be effective with regard to RMDs required to be made under Code Section 401(a)(9) after December 31, 2019, with respect to individuals who attain age 70 ½ after such date.
- 2.2 **Increase Age for Required Beginning Date to 72.** The required beginning date ("Required Beginning Date" or "RBD") for purposes of RMDs pursuant to Code Section 401(a)(9) shall be April 1 of the calendar year following the later of :

- a. the calendar year in which the Participant attains age 72, or
- b. the calendar year in which the Participant retires.

Provided, however, Section 2.2(b) shall not apply in the case of a Participant who is a 5% owner. For this purpose, a Participant will be treated as a 5% owner if the Participant was a 5-percent owner (as defined in Code §416)) with respect to the Plan Year ending in the calendar year in which the Participant attains age 72.

- 2.3 **Spousal Distributions.** Subject to any right under the Plan to elect the 10-Year Rule, if a Participant dies prior to the Participant's RBD and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later, provided the Plan, immediately before this Amendment, provided for delay of RMD to a surviving spouse to December 31 of the calendar year in which the Participant would have attained age 70½.
- 2.4 **Definitions.** Terms used in this Article shall have the meaning ascribed to them in this Article, Amendment, or applicable provisions of Code Section 401(a)(9), regulations or other guidance.

ARTICLE 3 BENEFICIARY REQUIRED MINIMUM DISTRIBUTIONS

- 3.1 **Application.** This Article 3 will apply to all plans other than Defined Benefit Plans. This Article will not apply to existing qualified annuities described in SECURE Act §401(b)(4)(B).
- 3.2 **Effective Date.** Except as otherwise provided in in this Article, this Article will apply to distributions with respect to Participants who die on or after (i) January 1, 2020, if the Plan is not a governmental or collectively bargained plan, (ii) January 1, 2022, if the Plan is a governmental plan (as defined in Code §414(d)), and (iii) the date determined in SECURE Act §401(b)(2), if the Plan is a collectively-bargained plan,. Section 3.5 provides special rules with respect to certain Accounts under the Plan of Participants who died before the Effective Date of this Article.
- 3.3 **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:

(a) **No Designated Beneficiary** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule pursuant to Code Section 401(a)(9)(B)(ii) and applicable regulations and other guidance.

(b) **Eligible Designated Beneficiary.** If the distributee of a Participant's Account under the Plan is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule pursuant to Code Section 401(a)(9)(B)(iii), subject to any election of the 10-Year Rule if allowed under the terms of the Plan. For purposes of such an election, if the Plan immediately before this Amendment provided for a right to elect between the 5-Year Rule and Life Expectancy Rule, such provisions are amended to provide for an Eligible Designated Beneficiary to elect the 10-Year Rule in lieu of the Life Expectancy Rule, and if elected, the 10-Year Rule shall apply with respect to distributions pursuant to this Section 3.3(b). In the absence of an election, the Plan's provisions with regard to the Life Expectancy Rule will apply. An election of the 10-Year Rule must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(c) **Other Designated Beneficiaries.** If the beneficiary of the Participant's Account under the Plan is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the beneficiary's entire interest will be distributed under the 10-Year Rule.

(d) **10-Year Rule.** If distribution of a deceased Participant's Account under the Plan is subject to the "10-Year Rule," then distribution of the Participant's entire Account will be completed by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

3.4 **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death using the Life Expectancy Rule, as and to the extent provided by applicable regulations and other guidance. If the Beneficiary is a Designated Beneficiary who is not an Eligible Designated Beneficiary, the Plan will distribute the remaining interest in full no later than December 31 of the tenth year following the year of the Participant's death.

3.5 **Beneficiary Death.** If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before the Beneficiary's entire interest in the Participant's Account is distributed, the Plan will distribute the remainder of the Beneficiary's interest in full no later than December 31 of the 10th year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article, and the Participant's designated beneficiary died after such Effective Date but prior to receiving full distribution of the beneficiary's interest, the Plan pursuant to SECURE Act §401(b)(5) will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.

3.6 **Age of Majority.** A child of the Participant who is receiving distributions under the Life Expectancy rule shall cease to be an Eligible Designated Beneficiary as of the date the child reaches the age of Majority and any remainder of the child's interest in the Participant's Account under the Plan shall be distributed within 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary such as a disabled or chronically ill individual.

3.7 **Definitions; operating rules.** The following definitions and operating rules apply for this Article:

(a) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).

(b) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C) and the Plan and corresponding provisions of Article 2 of this Amendment.

(c) "**Designated Beneficiary**" means any individual who is designated by a Participant or Plan terms as a beneficiary of the Participant's Account under the Plan and who is a designated beneficiary under Code §401(a)(9) and applicable regulations or other guidance thereunder.

(d) "**Eligible Designated Beneficiary**" means a Designated Beneficiary of a Participant who is (1) the Participant's surviving spouse, (2) the Participant's child who has not reached the age of Majority, (3) disabled within the meaning of Code §72(m)(7), (4) chronically ill within the meaning of Code §7702B(c)(2), provided the requirements of subsection 7702B(c)(2)(A)(i) shall be treated as met if a certification is provided that, as of such date, the period of inability described in such subsection is an indefinite one which is reasonably expected to be lengthy in nature, or (5) any other individual who is not described in (1) through (4) of this Section 3.7(d) and is not more than 10 years younger than the Participant. Whether a Designated Beneficiary is an Eligible Designated Beneficiary shall be determined as of the date of the Participant's death. Certain trusts (or parts of certain trusts) may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).

(e) "**Majority**" for purposes of the "age of Majority" of a Participant's child shall be determined under Code §401(a)(9)(F) and applicable regulations or other guidance issued thereunder.

(f) The "**Life Expectancy Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.

(g) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.

(h) The “**10-Year Rule**” is described in Section 3.3(d).

(i) **Separate share rule.** A Participant’s Account under the Plan and a Beneficiary’s interest in that Account will be applied separately as provided in Code §401(a)(9)(H)(iv), or as provided by provisions of Treas. Reg. §1.401(a)(9)-8, Q&A 2 or 3 that are not contrary to Code §401(a)(9)(H)(iv) or other applicable laws or regulations.

ARTICLE 4

SUSPENSION OF 2020 RMDs; EXTENSION OF 5-YEAR RULE FOR RMDs – CARES §2203

4.1 **Application.** This Article applies only to defined contribution plans, which generally are retirement plans adopted by an employer pursuant to Code Section 401(a) or 403(b) that are not defined benefit plans. This Article does not apply to defined benefit plans. It is effective January 1, 2020 pursuant to Code Section 401(a)(9)(I).

4.2 **Suspension of 2020 RMDs; Extension of 5-Year Rule by One Year.**

(a) **Suspension of Required Minimum Distributions for 2020.** A Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 1, 2021) but for the enactment of Code Section 401(a)(9)(I) (“2020 RMDs”), and who would have satisfied that requirement by receiving distributions that are either (i) equal to the 2020 RMDs or (ii) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s Designated Beneficiary, or for a period of at least 10 years (“Extended 2020 RMDs”), will not receive those distributions for 2020 unless the Participant or Beneficiary, as the case may be, chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence; and

(b) **Direct Rollovers.** For purposes of applying the direct rollover provisions of the Plan, a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(I).

4.3 **Extension of 5-Year Rule.** The 5-year period described in Code Section 401(a)(9)(B)(ii) shall be determined without regard to calendar year 2020, resulting in an additional year to distribute RMDs under the 5-Year Rule, unless a beneficiary otherwise elects to the contrary. A beneficiary of an Applicable Participant Account may elect to include calendar year 2020 for purposes of the 5-Year Rule and not extend the deadline to distribute the account by an additional year. If a beneficiary fails make an election to extend the distribution, calendar year 2020 will not be counted and the 5-Year Rule for RMDs of the Applicable Participant Account will be extended an additional year.

4.4 **Definitions.** The following definitions apply for this Article:

(a) “**RMDs**” means required minimum distributions described in Code §401(a)(9).

(b) The “**5-Year Rule**” for distributing RMDs is described in Code §401(a)(9)(B)(ii) and corresponding Plan provisions .

(c) “**Applicable Participant Account**” means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

ARTICLE 5

UPDATED LIFE EXPECTANCY TABLES – TREAS. REG. §1.401(a)(9)-9

5.1 **Application.** This Article shall apply to all plans and is effective for distribution calendar years beginning on or after January 1, 2022.

- 5.2 **New RMD Tables.** Any Plan provisions referencing or requiring use of any life expectancy table under Code Section 401(a)(9) or Treas. Reg. §1.401(a)(9) shall mean the tables published and adjusted from time to time under Treas. Reg. §1.401(a)(9)-9.

ARTICLE 6 DIFFICULTY OF CARE PAYMENTS – SECURE §116

- 6.1 **Application.** This Article will apply only if the Plan is a Defined Contribution Plan or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2015. For purposes of this Amendment, “Defined Contribution Plan” means a plan that is intended to satisfy the requirements of Code Section 401(a), except for a defined benefit plan.
- 6.2 **Inclusion in 415 Compensation.** Participant Compensation for purposes of determining the limit on annual additions under Code §415(c)(1)(B) shall include any Difficulty of Care Payments any Employer makes to a Participant. Any Difficulty of Care Payments shall be included for purposes of making any contributions or allocations under the Plan if the Plan expressly provides that Difficulty of Care Payments will be included for such purposes.
- 6.3 **Definition.** A “Difficulty of Care Payment” is a payment described in Code §131 made in connection with qualified foster individuals.

ARTICLE 7 403(b) TERMINATION DISTRIBUTIONS – SECURE §110

- 7.1 **Application.** This Article only shall apply to the Plan if it is intended to satisfy the requirements of Code Section 403(b) Plan. It is effective January 1, 2009.
- 7.2 **Custodial Accounts.** In connection with distributions upon termination of the Plan, the Plan may treat the delivery of a custodial account as a distribution, pursuant to Rev. Rul. 2020-23.

ARTICLE 8 OTHER

- I. Subsection 7.12.1(c) of the Plan is deleted and replaced in its entirety with following:
- “(c) Distributee: A distributee includes an Employee or former Employee. In addition, the Employee’s or former Employee’s surviving spouse and the Employee’s or former Employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2008, a distributee also includes the Participant’s nonspouse Beneficiary designated under the Plan. In the case of a nonspouse designated Beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA established on behalf of the nonspouse designated Beneficiary and treated as an inherited IRA pursuant to Code section 402(c)(11).”
- II. Effective October 1, 2022, Premium Pay paid to Employees pursuant to City Ordinance No. 1458 for actual hours worked during the time period beginning October 23, 2022 through December 17, 2022 shall be excluded from compensation for purposes of determining or allocating contributions or benefits under the Plan.
- III. Effective January 1, 2023:
- A. ‘Recognized Employment’ for purposes of this Plan is modified effective as of January 1, 2023 to include in this Plan certain additional Employees who shall begin participating in this Plan as provided in revised subsection B.(5) of the Plan’s Adoption Agreement below (“Revised Adoption

Agreement Subsection B.(5)”). Specifically, Subsection B.(5) of the Plan’s Adoption Agreement shall be deleted and replaced in its entirety by Revised Adoption Agreement Subsection B.(5) as follows:

“(5) **Recognized Employment.** Recognized Employment is service in the employment of the City in those job classifications indicated below (*place "X" on blank(s) indicating selection*): [Section 1.1.30]

- ___ (a) All Employees of the City employed as police officers.
- ___ (b) All Employees of the City employed as fire fighters.
- ___ (c) All Employees of the City as that term is defined in Section 1.1.10.
- ___ (d) All common law Employees of the City.
- ___ (e) Salaried Employees of the City.
- ___ (f) Hourly Employees of the City.
- ___ (g) Employees who are not covered by any retirement plan established by the City.
- X (h) Other (*specify*): (i) Effective January 1, 2023, all Management Exempt Employees, except for the Police Chief; and (ii) Before January 1, 2023, the City Administrator and Assistant City Administrator.”

If any Employee who is participating in the City of La Vista General Employees Defined Contribution Pension Plan and Trust (“General Employees Plan”) becomes eligible and begins participating in this Plan pursuant to subsection B.(5)(h) above, (i) the Employee shall cease participating in the General Employees Plan, pursuant to subsection B.(5) of the General Employees Plan Adoption Agreement, effective immediately before the Employee begins participating in this Plan, (ii) all vested or nonvested amounts credited to Accounts for the benefit of the Employee under the General Employees Plan shall be transferred to and become part of the Accounts held for the benefit of the Employee under this Plan, and (iii) such transferred amounts immediately shall be subject to and governed by the terms and conditions of this Plan, as amended from time to time. Notwithstanding anything in this Plan or the General Employees Plan to the contrary, the accrued benefit of any Employee under the General Employees Plan, and the nonforfeitable interest of the Employee in such benefit, shall not be decreased solely by reason of the Employee’s commencement of participation under this Plan or transfer of amounts or Accounts pursuant to this paragraph.”

- B. The name of this Plan shall change to the City of La Vista Management Exempt Employees Defined Contribution Plan and Trust.

This Amendment is hereby executed this 20th day of December 2022.

CITY OF LA VISTA, a Nebraska municipality

By: _____
Douglas Kindig, Mayor

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|---|---|----------------------------|
| PROFESSIONAL SERVICES AGREEMENT – FY25 - FY29 SEWER RATE STUDY | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | PAT DOWSE CITY ENGINEER |

SYNOPSIS

A resolution has been prepared authorizing a professional services agreement with Burns & McDonnell Engineering Company, Inc to provide professional consulting services for the FY25 - FY29 Sewer Rate Study in an amount not to exceed \$42,254.

FISCAL IMPACT

The FY23/FY24 Sewer Fund Budget includes funding for this work.

RECOMMENDATION

Approval

BACKGROUND

The City received three (3) proposals for the sewer rate study.

- | | |
|---------------------|-------------|
| • HDR | \$39,865.00 |
| • Burns & McDonnell | \$40,254.00 |
| • Carollo Engineers | \$49,822.00 |

Following review and evaluation of the proposals, staff recommends that the FY25 - FY29 Sewer Rate Study be awarded to Burns & McDonnell. Their thorough knowledge and understanding of our operations and practices establish them as the most qualified firm for this project. *(Burns & McDonnell prepared the current (FY20 – FY24) Sewer Rate Study).*

A copy of the scope is attached.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH BURNS & MCDONNELL ENGINEERING COMPANY, INC. TO PROVIDE PROFESSIONAL CONSULTING SERVICES FOR THE FY25 - FY29 SEWER RATE STUDY IN AN AMOUNT NOT TO EXCEED \$42,254.00.

WHEREAS, the Mayor and City Council have determined that it is desirable to perform a sewer rate study; and

WHEREAS, the City Council authorized the request for letters of interest for engineering services to perform a sewer rate study on September 6, 2022; and

WHEREAS, the FY23/FY24 Sewer Fund Budget includes funding for this work; and

WHEREAS, three proposals were received and reviewed; and

WHEREAS, staff has recommended that an agreement be executed with Burns & McDonnell Engineering Company, Inc.; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, that a professional services agreement in a form satisfactory to the City Administrator and City Attorney, be authorized with Burns & McDonnell Engineering Company, Inc. to provide professional consulting services for the FY25 - FY29 Sewer Rate Study in an amount not to exceed \$42,254.00.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, MMC
City Clerk

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES FOR REPORTS, STUDIES AND CONSULTATION

THIS AGREEMENT is made as of December , 2022, by and between the City of La Vista, Nebraska (“Client”) and Burns & McDonnell Engineering Company, Inc. (“Engineer”), a Missouri corporation specializing in professional consulting services. Client and Engineer, in consideration of their mutual covenants, agree as follows:

Client wishes Engineer to perform professional consulting services, and to provide professional consultation and advice for a professional fee (as set forth below) in connection with the Client’s Sewer Rate Study (the “Project”).

SCOPE OF SERVICES

The Scope of Services to be provided by Engineer, in connection with this Agreement, is as detailed in Attachment A.

TERMS AND CONDITIONS

The attached TERMS AND CONDITIONS FOR PROFESSIONAL CONSULTING SERVICES dated December , 2022, are incorporated by reference in and made a part of this Agreement.

COMPENSATION

For the services performed, Engineer shall bill Client and Client shall pay Engineer on a time and expenses basis according to Attachment B. The total budget for this project is \$40,254 including travel expenses. The costs outlined above will not be exceeded by Engineer without prior approval from Client.

SCHEDULE

Engineer is prepared to begin work on the Project upon receipt of notice to proceed, under the following schedule:

| | |
|---------------|---------------------------------|
| December 2022 | Initiate Project |
| February 2023 | Financial Planning Workshop |
| March 2023 | Cost of Service Analysis review |
| March 2023 | Proposed Rate Review |
| April 2023 | Draft Report to City for Review |
| May/June 2023 | Presentation to Council |

IN WITNESS WHEREOF, Client, by and through its authorized officer and Engineer, by and through its authorized officer, have made and executed this Agreement as of the day and year first above written:

Client
The City of La Vista, Nebraska

Engineer
Burns & McDonnell Engineering Company, Inc.



Name: _____

David F. Naumann

Title: _____

Senior Project Manager
1898 & Co., a part of Burns & McDonnell
Engineering Company, Inc.



TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

| | |
|---|--|
| Project: Sewer Rate Study | Date of Agreement: December ____, 2022 |
| Client: The City of La Vista, Nebraska | Client Signature: |

1. SCOPE OF SERVICES

For the above-referenced Project, Burns & McDonnell Engineering Company, Inc. (BMcD) will perform the services set forth in the above-referenced Letter, Proposal, or Agreement, in accordance with these Terms and Conditions. BMcD has relied upon the information provided by Client in the preparation of the Proposal, and shall rely on the information provided by or through Client during the execution of this Project as complete and accurate without independent verification.

2. PAYMENTS TO BMcD

A. Compensation will be as stated in the above-referenced Letter, Proposal, or Agreement. Statements will be in BMcD's standard format and are payable upon receipt. Time is of the essence in payment of statements, and timely payment is a material part of the consideration of this Agreement. A late payment charge will be added to all amounts not paid within 45 days of statement date and shall be calculated at 1.5 percent per month from statement date. Client shall reimburse any costs incurred by BMcD in collecting any delinquent amount, including reasonable attorney's fees. If a portion of BMcD's statement is disputed, Client shall pay the undisputed portion by the due date. Client shall advise BMcD in writing of the basis for any disputed portion of any statement.

B. Taxes as may be imposed on professional consulting services by state or local authorities shall be in addition to the payment stated in the above-referenced Letter, Proposal, or Agreement.

3. INSURANCE

A. During the course of performance of its services, BMcD will maintain Worker's Compensation insurance with limits as required by statute, Employer's Liability insurance with limits of \$1,000,000, and Commercial General Liability and Automobile Liability insurance each with combined single limits of \$1,000,000.

B. If the Project involves on-site construction, construction contractors shall be required to provide (or Client may provide) Owner's Protective Liability Insurance naming Client as a Named Insured and BMcD as an Additional Insured or to endorse Client and BMcD using ISO form CG 20 10 11 85 endorsement or its equivalent as Additional Insureds on all construction contractor's liability insurance policies covering claims for personal injuries and property damage in at least the amounts required of BMcD in 3A above. Construction contractors shall be required to provide certificates evidencing such insurance to Client and BMcD. Contractor's compensation shall include the cost of such insurance including coverage for contractual and indemnification obligations herein.

C. Client and BMcD release each other and waive all rights of subrogation against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of BMcD's services. A provision similar to this shall be incorporated into all construction contracts entered into by Client, and all construction contractors shall be required to provide waivers of subrogation in favor of Client and BMcD for damage covered by any construction contractor's property insurance.

4. INDEMNIFICATION

A. To the extent allowed by law, Client will require all construction contractors to indemnify, defend, and hold harmless Client and BMcD from any and all loss where loss is caused or alleged to be caused in whole or in part by the construction contractors, their employees, agents, subcontractors or suppliers.

B. If this Project involves construction and BMcD does not provide consulting services during construction including, but not limited to, on-site monitoring, site visits, site observation, shop drawing review, and/or design clarifications, Client agrees to indemnify and hold

harmless BMcD from any liability arising from this Project or Agreement, except to the extent caused by BMcD's negligence.

5. PROFESSIONAL RESPONSIBILITY-- LIMITATION OF REMEDIES

A. BMcD will exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted professional practices. If BMcD fails to meet the foregoing standard, BMcD will perform at its own cost, the professional services necessary to correct errors and omissions reported to BMcD in writing within one year from the completion of BMcD's services for the Project. No warranty, express or implied, is included in this Agreement or regarding any drawing, specification, or other work product or instrument of service.

B. In no event will BMcD be liable for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of Client, and/or governmental fines or penalties.

C. BMcD's aggregate liability for all damages connected with its services for the Project not excluded by the preceding subparagraph, whether or not covered by BMcD's insurance, will not exceed \$100,000.

D. These mutually negotiated obligations and remedies stated in this Paragraph 5, Professional Responsibility - Limitation of Remedies, are the obligations of BMcD and remedies of Client, whether liability of BMcD is based on contract, warranty, strict liability, tort (including negligence), indemnity, or otherwise.

6. PERIOD OF SERVICE AND SCHEDULE

The provisions of this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the services stated in the Proposal. BMcD's obligation to render services hereunder will extend for a period that may reasonably be required for the completion of said services. BMcD shall make reasonable efforts to comply with deliverable schedules (if any) and consistent with BMcD's professional responsibility.

7. COMPUTER PROGRAMS OR MODELS

Any use, development, modification, or integration by BMcD of computer models or programs does not constitute ownership or a license to Client to use or modify such computer models or programs. Notwithstanding the foregoing, Client shall own the deliverables provided to Client in accordance with scope described in Attachment A.

8. ELECTRONIC MEDIA AND DATA TRANSMISSIONS

A. Any electronic media (computer disks, tapes, etc.) or data transmissions furnished (including Project Web Sites or CAD file transmissions) are for Client information and convenience only. Such media or transmissions are not to be considered part of BMcD's instruments of service. BMcD, at its option, may remove all indicia of its ownership and involvement from each electronic display.

B. BMcD shall not be liable for loss or damage directly or indirectly, arising out of Client's use of electronic media or data transmissions.

9. DOCUMENTS

A. All documents prepared by BMcD pursuant to this Agreement are instruments of service in respect of the Project specified herein. They are not intended or represented to be suitable for reuse by Client or others in extensions of the Project beyond that now contemplated or on any other Project. Any reuse, extension, or completion by Client or others without written verification, adaptation, and permission by BMcD for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to BMcD.

B. In the event that BMcD is to reuse, copy or adapt all or portions of reports, plans, or specifications prepared by others, Client represents that Client either possesses or will obtain permission and necessary rights in copyright, patents, or other proprietary rights and will be responsible for any infringement claims by others. Client warrants the completeness, accuracy, and efficacy of the information, data, and design provided by or through Client (including prepared for Client by others), for which BMcD shall rely on to perform and complete its services.

10. ESTIMATES, SCHEDULES, FORECASTS, AND PROJECTIONS

Estimates, schedules, forecasts, and projections prepared by BMcD relating to loads, interest rates and other financial analysis parameters, construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are opinions based on BMcD's experience, qualifications, and judgment as a professional. Since BMcD has no control over weather, cost and availability of labor, cost and availability of material and equipment, cost of fuel or other utilities, labor productivity, construction contractor's procedures and methods, unavoidable delays, construction contractor's methods of determining prices, economic conditions, government regulations and laws (including the interpretation thereof), competitive bidding or market conditions, and other factors affecting such estimates or projections, BMcD does not guarantee that actual rates, costs, quantities, performance, schedules, etc., will not vary significantly from estimates and projections prepared by BMcD.

11. POLLUTION

In view of the uncertainty involved in investigating and recommending solutions to environmental problems and the abnormal degree of risk of claims imposed upon BMcD in performing such services, notwithstanding the responsibility of BMcD set forth in Paragraph 5A to the maximum extent allowed by law, Client agrees to release, defend, indemnify and hold harmless BMcD and its officers, directors, employees, agents, consultants and subcontractors from all liability, claims, demands, damages, losses, and expenses including, but not limited to, claims of Client and other persons and organizations, reasonable fees and expenses of attorneys and consultants, and court costs, except where there has been a final adjudication that the damages were caused by BMcD's willful disregard of its obligations under this Agreement. Such indemnification includes claims arising out of, or in any way relating to, the actual, alleged, or threatened dispersal, escape, or release of, or failure to detect or contain, chemicals, wastes, liquids, gases, or any other material, irritant, contaminant, or pollutant.

12. ON-SITE SERVICES

A. Project site visits by BMcD during investigation, observation, construction or equipment installation, or the furnishing of Project representatives shall not make BMcD responsible for construction means, methods, techniques, sequences, or procedures; for construction safety precautions or programs; or for any construction contractor(s)' failure to perform its work in accordance with the contract documents.

B. Client shall disclose to BMcD the location and types of any known or suspected toxic, hazardous, or chemical materials or wastes existing on or near the premises upon which work is to be performed by BMcD's employees or subcontractors. If any hazardous wastes not identified by Client are discovered after a Project is undertaken, Client and BMcD agree that the scope of services, schedule, and compensation may be adjusted accordingly. Client agrees to release BMcD from all damages related to any pre-existing pollutant, contaminant, toxic, or hazardous substance at the site.

13. CHANGES

Client shall have the right to make changes within the general scope of BMcD's services, with an appropriate change in compensation and schedule, upon execution of a mutually acceptable amendment or change order signed by authorized representatives of Client and BMcD.

14. TERMINATION

Services may be terminated by Client or BMcD by seven (7) days' written notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. If so terminated, Client shall pay BMcD all amounts due BMcD for all services properly rendered and expenses incurred to the date of receipt of notice of termination, plus reasonable

costs incurred by BMcD in terminating the services. In addition, Client may terminate the services for Client's convenience upon payment of twenty percent of the yet unearned and unpaid estimated, lump sum, or not-to-exceed fee, as applicable.

15. NOT USED

16. WITNESS FEES

A. BMcD's employees shall not be retained as expert witnesses, except by separate written agreement.

B. Client agrees to pay BMcD pursuant to BMcD's then current schedule of hourly labor billing rates for time spent by any employee of BMcD responding to any subpoena by any party in any dispute as an occurrence witness or to assemble and produce documents resulting from BMcD's services under this Agreement.

17. CONTROLLING LAW

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Nebraska without regard to any conflicts of law provisions.

18. RIGHTS AND BENEFITS – NO ASSIGNMENT

BMcD's services will be performed solely for the benefit of Client and not for the benefit of any other persons or entities. Neither Client nor BMcD shall assign or transfer interest in this Agreement without the written consent of the other.

19. ENTIRE CONTRACT

These Terms and Conditions and the above-referenced Letter, Proposal, or Agreement contain the entire agreement between BMcD and Client relative to BMcD's services for the Project herein. All previous or contemporaneous agreements, representations, promises, and conditions relating to BMcD's services for the Project are superseded. Since terms contained in purchase orders do not generally apply to professional services, in the event Client issues to BMcD a purchase order, no preprinted terms thereon shall become part of this Agreement. Said purchase order documents, whether or not signed by BMcD, shall be considered only as an internal document of Client to facilitate administrative requirements of Client's operations.

20. SEVERABILITY

Any unenforceable provision herein shall be amended to the extent necessary to make it enforceable; if not possible, it shall be deleted and all other provisions shall remain in full force and affect.

- END -

Attachment A: Scope of Services

Task 1 | Initiate Project

The objective of Task 1 is to initiate the Study, collecting pertinent data and collaborating with the City to confirm consensus understanding of issues, milestones, communication strategies and other matters.

Task 1.1 Request for Information

Within five working days following receipt of the Notice to Proceed, we will provide the City with a preliminary data request to complete the study. The data request will itemize information needed for understanding the financial and operating characteristics and cost drivers of the utilities and within each of the service areas. Such information is anticipated to include items such as:

- Historical customer data (e.g. number of active accounts by customer class, billable sewer flow by class, revenues by class) for FY 2019 through FY 2022.
- Current FY 2023 budget.
- Detail of actual revenues and expenses FY 2019 through FY 2022.
- Audited financial statements for the last 3 years.
- Anticipated federal or state external stimulus funding.
- Bond covenants, intergovernmental agreements and other contractual requirements, as applicable.
- Projected capital expenditures.
- Fund balances at the beginning of FY 2023.
- Existing debt and loan payment schedules.
- Other appropriate information as deemed necessary

We have a substantial amount of existing data from prior work with the City. The data request will be tailored to reflect only incremental data needs required to perform the Study.

Task 1.2 Kick-off Meeting & Project Management

We will conduct a project kick-off meeting at the City's office. This meeting will provide the opportunity for our team and the City to discuss the project approach, schedule, deliverables, various issues to be addressed, and the initial data and information requested. Burns & McDonnell will provide an agenda in advance of the meeting.

Task 1 Deliverables

- Preliminary data request
- On-site kick-off meeting

Task 2 | Financial Plan Development

The objective of Task 2 is to develop a 5-year financial plan for the utility system that adequately funds the operating and capital requirements, complies with financial management policies and bond covenants, and provides a defensible and implementable plan for the utility to move forward.

Forecasting performed in Task 2 will determine whether the utility's revenues under current rates can be expected to provide adequate funding for future utility operating and capital costs.

Task 2.1 Evaluate Current Usage Levels and Prepare Revenue Forecast

Projected annual utility service revenues under existing rates will be developed. Our team will review historical growth in the number of customers by class, and then forecast the annual number of customers for each utility rate class for each year of the forecast period.

We will assess trends in sewer billable flow by class. Based on the trend analysis and other available information, our team will estimate the future usage per customer for each rate class for each utility.

Attachment A: Scope of Services

This information will be used in the forecast of revenues under existing rates, and will provide important data used in the consideration of rate structures. We will also develop projections of revenues from other existing sources, which may include interest income and other miscellaneous income sources, including connection fees. A review of development expectations and system demand through the end of the Study period will be performed.

Task 2.2 Project Capital Flow of Funds

We will review the capital improvement plan (CIP) provided by the City and develop a capital planning flow of funds. This plan will acknowledge anticipated sources and uses of capital funds to implement the CIP. Funding sources may include issuance of proposed bonds, loans, growth-related fees, existing balances, potential ARPA funding, and other sources as applicable. Uses of funds will include the CIP, cost of debt issuance, and other costs as identified through consultation with the City.

Task 2.3 – Project Operating Revenue Requirements

Projections of annual system operation and maintenance expenses will be developed based on variables that may include projected sewer usage, historical expense levels, existing budgets, inflation estimates and the input of the City staff regarding any planned changes to the operation and maintenance of the utility systems. Forecasting will take into consideration cost of sewage treatment through the City of Omaha and connection fees remitted to other agencies

Annual debt service requirements on any outstanding debt will be included in the operating forecast. To the extent additional financing of expected capital improvements is indicated to be required, estimates of new debt service requirements will also be incorporated in the forecast. In addition, the impacts of any financial performance requirements or targets, i.e. debt service coverage requirement, reserve levels, target operating ratio, etc., whether imposed internally or externally, will be considered.

Projections of any other system cash expenditures not included in any of the above categories will also be captured in the financial forecast. Such expenditures often include transfers or routine capital expenditures not otherwise included in a capital improvement plan.

Task 2.5 – Review and Finalize Operating Cash Flows

We will summarize the annual forecasts of the utility's revenues and operating requirements in the form of pro-forma cash flow analyses. These analyses will identify the annual operating surplus or deficit anticipated during the study period. The sufficiency of existing rates to meet future revenue requirements will be evaluated based the ability to meet certain financial performance measures, including the anticipated annual surplus or deficit, debt service coverage levels, reserve balance goals, and other policies or measures developed in conjunction with the City. If revenues under existing rates are not sufficient to meet future revenue requirements, adjustments will be proposed.

It is anticipated that several scenarios or "what-if's" may be evaluated during this stage of the Study. Changes in key assumptions, such as future billable flow, customer growth, inflation, debt issuance, interest rates, operating costs, etc. may be evaluated for their sensitivity in changing forecast outcomes. We also anticipate evaluating the impact of different capital planning assumptions, which may include changes in infiltration/inflow projects, renewal and replacement of existing infrastructure, treatment plant improvements, or others as identified by the City.

Our team will review the preliminary forecast results with the City during an on-site review meeting. During this meeting, we will review assumptions and results for each component of the cash flow forecast. During the meeting adjustments may be made "real time" to optimize the financial plans and meet the City's needs.

Attachment A: Scope of Services

Task 2 Deliverables

- Evaluation of billing determinants and trends
- Projected cash flow by utility
- Scenario analysis
- On-site meeting to review and finalize cash flows

Task 3 | Cost of Service Analysis

A cost of service analysis focuses on assigning cost responsibility to the different classifications of customers. Each customer class is allocated an appropriate share of the overall system costs of providing service. The test year revenue requirement selected in collaboration with the City will serve as the basis for the cost of service analysis for the utility systems. The revenue requirement will be calculated using cash basis, unless otherwise directed by contract customer requirements.

Under the cash basis, the revenues of the utility must be sufficient to cover all cash needs for the period during which the rates are intended to be adequate. This basis is generally used by publicly owned utilities and is an extension of cash-oriented budgeting and accounting systems traditionally used by local governments. Revenue requirements under this basis include operation and maintenance expenses, routine annual replacements, debt service requirements, revenue-financed major capital improvements as well as any payment or transfers to the City general fund and reserve fund deposits.

We will utilize the test year revenue requirement to conduct a cost of service analysis that result in allocation of costs to each of the City's existing rate classes. The development of the class specific allocated cost of service will be consistent with industry standards.

Task 3.1 – Determine Utility Cost Assignments by Function

We will complete the cost of service analysis using customized models that reflects the specific requirements of the City's utility system. Burns & McDonnell will complete cost functionalization and classification to functional service areas. Based on the sewer collection and conveyance services provided by La Vista to its sewer customers, functions are anticipated to include volume and customer components, consistent with the last study. If the City of Omaha's method for billing for sewer treatment service has changed since the last rate study, we will evaluate the potential for acknowledging responsibility for functions related to infiltration/inflow and strength of discharge.

The amounts included in the test year revenue requirement for each component of revenue or expense will be classified as or assigned to the various functional services by one of several methods. These methods include direct assignment to a specific related function, assumed percentage breakdowns based on estimated levels of related activities within multiple functions, ratios of statistical factors affecting multiple functions, and composite ratios of the assignments resulting from the previous methods. The classified test year revenue requirement will then be summarized by functional service.

Task 3.2 – Allocate Functional Costs to Classes

The test year revenue requirement will be allocated among the existing rate classifications. This is generally referred to as development of each utility's units of service by customer class. At a minimum, units of service will include base volumes and customers. Units for infiltration/inflow and strength will also be developed if such units impact the cost of treatment service provided by Omaha.

The cost of service will summarize the allocated revenue requirement by rate class. This output will be compared with the projected revenue to be generated by each rate class to estimate for each class the extent to which the current rates would recover the corresponding allocated share of the test year revenue

Attachment A: Scope of Services

requirement. As a result, a breakdown by rate classification of the total revenue change at the system level will be determined.

Task 3.3 – Review Cost of Service Results

We will conduct a project review meeting with the City staff to review and discuss the preliminary cost of service analysis results. Any revisions to the assumptions used in the cost of service analysis will be agreed upon for purposes of finalizing the analysis. In addition, guidance will be obtained from the City as to any adjustments to the cost recovery to be provided by each rate classification prior to beginning Task 4 of the Study.

The final cost allocations will be fair and equitable to the various classes of service and will comply with the City goals and objectives.

Task 3 Deliverables

- Cost of service allocations to classes
- Microsoft Teams meeting to discuss cost of service results

Task 4 | Proposed Rate Development

The objective of Task 4 is to develop proposed rates that meet the needs and objectives of the City. We will assess the existing rate structures for its performance, overall equity, and ability to meet the City's objectives for utility rates. The appropriateness of the current rate structures will be examined, and recommendations for change will be made to improve the fairness and equitability in cost recovery, achieve the City goals, and align with the City policies.

Task 4.1 – Design Proposed User Charge Rates

Following the completion of the allocation of test year revenue requirements to the customer classes for the systems, we will design rates to generate adequate revenues to meet the applicable test year revenue requirements, and reflect the results of the cost of service analysis. Rates will be structured to equitably recover costs and provide necessary funding identified in the financial plan to achieve revenues sufficient to meet the operating and capital needs of the system and achieve targeted reserves. Changes in rates may be phased-in over a multi-year period if needed to assist in implementation and mitigate adverse impacts to customer classes. Rates will be developed for the entire Study period and will include the evaluation of three alternatives.

Task 4.2 – Develop Forecast of Revenues Under Proposed Rates

We will utilize the detailed billing data provided by the City to test and project revenues at the proposed rates for all proposed rate classes for sewer utility service. This will provide a check that the proposed rates will generate revenues to cover the system's revenue requirement, while taking into consideration the revenue responsibility indicated by the cost of service analysis and the City's rate design policies and objectives.

Task 4.3 – Sewer Bill Comparisons

We will complete typical bill calculations for a single family customer and a commercial/industrial user. In the last study, we evaluated low, average and high use profiles for both the single family and commercial typical bill comparisons. Typical monthly bill calculations for each customer profile will demonstrate the impact the proposed rates could have on customers' monthly bills.

Burns & McDonnell will provide rate comparisons for residential sewer customers of existing and proposed rates to the rates of up to fifteen neighboring sewer utilities in the region. In the last study this included 11

Attachment A: Scope of Services

other utilities. The list of utilities for which these comparisons will be developed will be agreed upon prior to the initiation of Task 4.

Task 4.4 – Review Proposed Rates and Fees

We will conduct a project review meeting with the City staff to review and discuss the proposed rates and the forecast of revenues at proposed rates. Any revisions to the proposed rates used in the analysis will be agreed upon for purposes of finalizing the proposed rate development.

Task 4 Deliverables and Meetings

- Proposed rates
- Typical bill computation
- Regional comparison sewer bills
- Microsoft Teams meeting to review draft and final proposed rates and fees

Task 5 | Reports, Presentations, and Model

Upon completion of the utility rate development, our team will summarize the Study results in a draft report for review by the City. The report will include an executive summary describing the study process, and key findings and recommendations regarding rate design and proposed fees. Subsequent sections of the report will describe the analysis in more tactical detail and will identify the results of each task of the Study.

We will discuss the results of Study and review the draft reports in a Microsoft Teams meeting with the City staff. Based upon comments and input from the City, our team will complete a final revision to the reports and will provide a digital copy in PDF format to the City.

One on-site presentation of results at a City Council meeting. The schedule for this presentation will be developed in consultation with the City.

At the conclusion of the Study, we will provide a working copy of the Excel-based model used to perform the analysis for the City's reference and future use. Training on the model can be provided at the City's request as an additional service.

Task 5 Deliverables and Meetings

- Draft & final reports
- Adobe PDF of final reports
- Microsoft Teams meeting to review and finalize reports
- Presentation of results to City Council
- Transmit copy of model to the City

Attachment B: Fee for Consultant Services

1898 & Co., a part of Burns & McDonnell, proposes to complete the Study described in this proposal on a time and materials basis for a not-to-exceed fee of \$40,254, including 182 labor hours, and all expenses and overhead. Hours by person and by task are shown, along with labor costs and expenses by task. Hourly rates are also indicated.

Finally, our cost estimate includes three on-site meetings, one to initiate the project in Task 1, one to review financial plans in Task 2, and one to present Study results in Task 5.

| La Vista, NE Sewer Rate Study | | | | | | | |
|----------------------------------|---------------------------------|---|---|---|---|--------------------------|----------------------------|
| | Task 1 - Initiate Project | Task 2 - Financial Plan Development | Task 3 - Cost of Service Analysis | Task 4 - Proposed Rate Development | Task 5 - Study Reports & Presentations | Estimated Total Hours | Hourly Billing Rates |
| Consultant | | | | | | | |
| Dave Naumann | 8 | 20 | 8 | 8 | 16 | 60 | \$ 268 |
| Rick Besancon | 1 | 4 | | | 1 | 6 | \$ 268 |
| Sara Stafford | | 2 | 2 | 2 | 2 | 8 | \$ 254 |
| Alex Craven | | 30 | 18 | 16 | 8 | 72 | \$ 189 |
| Evaristo Casimiro | | 20 | 4 | 4 | 8 | 36 | \$ 166 |
| Total Labor | 9 | 76 | 32 | 30 | 35 | 182 | |
| Total Labor | \$ 2,412 | \$ 15,930 | \$ 6,718 | \$ 6,340 | \$ 7,904 | \$ 39,304 | |
| Expenses \$ ⁽¹⁾ | \$ 250 | \$ 250 | \$ - | \$ - | \$ 450 | \$ 950 | |
| Total Project Fees | \$ 2,662 | \$ 16,180 | \$ 6,718 | \$ 6,340 | \$ 8,354 | \$ 40,254 | |

⁽¹⁾ Cost for travel and on-site meetings, to be billed at cost.

The Study will be invoiced monthly based on time and materials and are due upon receipt. Hourly rates for our project team are shown in the table above and reflect current employee levels. In the event team members advance in 2023, rates per hour may change to reflect their new level. A full rate sheet is shown to the right. Rate changes will not impact the agreed upon not-to-exceed fee of \$40,254.

Travel expenses will be invoiced at cost.

| Hourly Billing Rates BMR 22-6a | |
|-----------------------------------|---------------|
| Employee Level | Rate per Hour |

| | |
|----|-------|
| 16 | \$268 |
| 15 | \$265 |
| 14 | \$262 |
| 13 | \$254 |
| 12 | \$232 |
| 11 | \$209 |
| 10 | \$189 |
| 9 | \$166 |

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|---|---|--|
| MEMORANDUM OF UNDERSTANDING – GRADING & CONSTRUCTION PERMITS (SOUTHERN SARPY WATERSHED) | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | JOE SOUCIE DIRECTOR OF PUBLIC WORKS |

SYNOPSIS

A resolution has been prepared to approve the execution of Memorandum Of Understanding (MOU) for Grading and Construction Permits within Southern Sarpy Watershed.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

The City of La Vista is a party to an Interlocal Cooperation Agreement between Sarpy County and the Cities of Papillion, Bellevue, Springfield, La Vista and Gretna, which formed the Sarpy County and Cities Wastewater Agency (the “Agency”).

Sarpy County, Bellevue, Gretna, Papillion, Springfield, and the Papio-Missouri River Natural Resources District are also members of the Southern Sarpy Watershed Partnership. The Southern Sarpy Watershed Partnership was formed, in part, to enact and implement common standards for development over portions of southern Sarpy County that drains into the Platte River including, but not limited to, the standardization of the construction development rules and regulations to reduce liability to landowners from flooding and erosion problems and to reduce sediment runoff during construction.

The Agency intends to construct the Unified SSWS which will affect land in the Watershed located within the zoning and planning jurisdictions of Sarpy County, Gretna, Papillion, Springfield and Bellevue. For the sake of efficient permit enforcement and compliance, and potential cost savings related to the same, rather than each member having jurisdiction over the land on which the Unified SSWS will be constructed issue separate permits, the Agency Members desire to designate the County issuer of any and all grading and other construction permits required by the Southern Sarpy Watershed Partnership and necessary for the current and future construction phases of the Unified SSWS.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR GRADING AND CONSTRUCTION PERMITS WITHIN SOUTHERN SARPY WATERSHED.

WHEREAS, the City desires to enter into a Memorandum of Understanding for grading and construction permits within Southern Sarpy Watershed; and

WHEREAS, the Memorandum of Understanding will, for the sake of efficient permit enforcement and compliance designate Sarpy County as the issuer of any and all grading and other construction permits required by the Southern Sarpy Watershed Partnership and necessary for the current and future construction phases of the Unified SSWS; and

WHEREAS, the Memorandum of Understanding shall automatically terminate upon the completion of construction of the Unified SSWS;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, hereby authorize the Mayor to execute a Memorandum of Understanding for grading and construction permits within Southern Sarpy Watershed.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

**MEMORANDUM OF UNDERSTANDING REGARDING GRADING AND
CONSTRUCTION PERMITS FOR WORK WITHIN SOUTHERN SARPY
WATERSHED**

THIS MEMORANDUM OF UNDERSTANDING (this “MOU”) is entered into as of the Effective Date (as defined in paragraph 6 below) by and between the Sarpy County and Cities Wastewater Agency (the “Agency”), and the County of Sarpy, Nebraska (the “County”) and the following cities (collectively, the “Cities”): the City of Papillion, Nebraska (“Papillion”), the City of Bellevue, Nebraska (“Bellevue”), the City of Springfield, Nebraska (“Springfield”), the City of Gretna, Nebraska (“Gretna”), and the City of La Vista, Nebraska (“La Vista”). Capitalized terms used herein shall have the same meaning as defined in the Formation Interlocal (as defined below), unless otherwise specified herein.

WHEREAS, the Agency was created as a separate body corporate and politic by the County and the Cities pursuant to that certain Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency dated September 19, 2017 (as amended the “Formation Interlocal”), by the authority granted under the Nebraska Interlocal Cooperation Act;

WHEREAS, the County and the Cities are Members of the Agency;

WHEREAS, the County, Bellevue, Gretna, Papillion, Springfield, and the Papio-Missouri River Natural Resources District are members of the Southern Sarpy Watershed Partnership (the “Southern Sarpy Watershed Partnership”);

WHEREAS, the Southern Sarpy Watershed Partnership was formed, in part, to enact and implement common standards for development over portions of southern Sarpy County that drains into the Platte River (the “Watershed”) including, but not limited to, the standardization of the construction development rules and regulations to reduce liability to landowners from flooding and erosion problems and to reduce sediment runoff during construction;

WHEREAS, the Agency intends to construct the Unified SSWS which will affect land in the Watershed located within the zoning and planning jurisdictions of the County, Gretna, Papillion, Springfield and Bellevue;

WHEREAS, in accordance with applicable plans, programs and policies adopted by the Southern Sarpy Watershed Partnership, partnership members are responsible for administering and issuing grading and other construction permits for construction work on land in the Watershed that are located within their respective zoning jurisdictions;

WHEREAS, for the sake of efficient permit enforcement and compliance, and potential cost savings related to the same, rather than each Member having jurisdiction over the land on which the Unified SSWS will be constructed issue separate permits, the Agency Members desire to designate the County issuer of any and all grading and other construction permits required by the Southern Sarpy Watershed Partnership and necessary for the current and future construction phases of the Unified SSWS;

WHEREAS, Section V.A.27 of the Formation Interlocal (as amended by the Third Amendment to the Formation Interlocal) authorizes the Agency to:

“Apply for, hold, maintain, enforce and be the responsible party for, and to enter into any agreements with Members or other political subdivisions concerning any and all permits, licenses, approvals and authorizations issued or given by any federal, state, county and local government agencies, districts, departments, boards, partnerships, and other political subdivisions necessary for or related to the construction, inspection, ownership, operation and maintenance of the Unified SSWS in accordance with this Agreement including, but not limited to, grading and other construction permits issued by the applicable political subdivisions having authority over such matters.”

WHEREAS, the purpose of this MOU is to memorialize the Agency’s and the Members’ intent for the Agency to apply for and hold, and for the County to issue and enforce, any and all grading and other construction permits necessary for the construction of the Unified SSWS within the Watershed even though the construction work subject to said permits will cover the respective zoning jurisdictions of the County, Gretna, Papillion, Springfield and Bellevue.

In furtherance of the foregoing, the parties hereto consent and agree to the following:

1. **Grading and Other Construction Permits.** The Members consent to the Agency applying for and holding any and all necessary grading and other construction permits for all phases of the Unified SSWS that are subject to the Southern Sarpy Watershed Partnership’s policies. The Members further consent to the County issuing and enforcing such grading and other construction permits, even though the construction work subject to said permits will cross the zoning jurisdictions of the County, Gretna, Papillion, Springfield and Bellevue. The Agency shall be responsible for paying for any and all fees and costs related to the issuance of such grading and other construction permits required by the County.

2. **Permit Enforcement.** Even though such grading and construction permits issued by the County to the Agency under paragraph 1 above affect construction activity covering land in multiple Member jurisdictions, the parties acknowledge, agree and consent to the County enforcing such permits in accordance with their terms across such jurisdictional boundaries. The Agency and the parties hereto agree to cooperate with the County in connection with such enforcement measures. The Agency Project Engineer shall be responsible for supervising the construction in accordance with such grading and other construction permits issued in accordance with this Agreement.

3. **Cooperation.** The parties agree to execute and deliver all documents, provide all information, and take or forebear from such action as may be necessary or appropriate to achieve the purposes of this MOU, and the parties hereto shall further perform the applicable provisions of this MOU in good faith and with due diligence and in cooperation with the other parties. The parties shall refrain from taking any action that is inconsistent with the terms hereof.

4. **Application.** The terms of this MOU shall only apply to the grading and other construction permits issued or approved by the County under this Agreement with respect to the Agency's current and future construction phases of the Unified SSWS.

5. **Term.** This MOU shall automatically terminate upon the completion of construction of the Unified SSWS.

6. **Effective Date.** This MOU shall be subject to approval of the governing bodies of all the parties, and each party shall each furnish to the other parties a certified copy of the resolution of its respective governing body. This MOU shall be in full force and effect as of the date of execution hereof by the last of the parties hereto (such last date, the "Effective Date").

7. **Miscellaneous.** This MOU may be modified only by written amendment, approved by the governing bodies of all parties and duly executed by authorized representatives of the parties. Every amendment shall specify the date on which its provisions shall be effective, and if an effective date is not specified, the amendment shall be effective on the last date that the amendment is executed by a party. This MOU contains the entire agreement of the parties. No representations were made or relied upon by any party other than those that are expressly set forth herein. No agent, employee or other representative of any party is empowered to alter any of the terms hereof except as provided herein. If any provision of this MOU is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and the remainder of this MOU will remain in full force and effect. All covenants, stipulations and agreements in this MOU shall inure to the benefit of the parties hereto and extend to and bind the legal representatives, successors and assigns of the respective parties hereto.

The recitals at the beginning of this MOU are incorporated herein by this reference.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by the Sarpy County and Cities Wastewater Agency this 16th day of November, 2022.



SARPY COUNTY AND CITIES
WASTEWATER AGENCY,
A Political Subdivision

By David R. Kelly
Chairperson, Agency Board

ATTEST:

Lisa A. Haine
Secretary, Agency Board

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by Sarpy County this _____ day of _____, 2022.

SARPY COUNTY, NEBRASKA,
A Political Subdivision

By _____
Chairperson, Board of Commissioners

Attest:

Approved as to form:

Sarpy County Clerk

Sarpy County Attorney

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by the City of Bellevue this _____ day of _____, 2022.

ATTEST:

CITY OF BELLEVUE, a Nebraska
Municipal Corporation

Sabrina Ohnmacht, City Clerk

Rusty Hike, Mayor

CITY SEAL

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by the City of Papillion this _____ day of _____, 2022.

ATTEST:

CITY OF PAPILLION, a Nebraska
Municipal Corporation

Nicole Brown, City Clerk

David P. Black, Mayor

CITY SEAL

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by the City of La Vista this _____ day of _____, 2022.

ATTEST:

CITY OF LA VISTA, a Nebraska
Municipal Corporation

Pamela A. Buethe, City Clerk

Douglas Kindig, Mayor

CITY SEAL

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by the City of Springfield this _____ day of _____, 2022.

ATTEST:

CITY OF SPRINGFIELD, a Nebraska
Municipal Corporation

Kathleen Gottsch,
City Administrator/City Clerk

Robert Roseland, Mayor

CITY SEAL

IN WITNESS WHEREOF, the parties hereunto set their hands to this MOU upon the day and year hereinafter indicated.

Signed by the City of Springfield this _____ day of _____, 2022.

ATTEST:

CITY OF GRETNA, a Nebraska
Municipal Corporation

Tammy L. Tisdall, City Clerk,

Mike Evans, Mayor

CITY SEAL

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|---|---|-----------------------------|
| PURCHASE OF Un-MARKED POLICE VEHICLE | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | BOB LAUSTEN POLICE CHIEF |

SYNOPSIS

A resolution has been prepared to approve the purchase of three (3) 2023 Chevrolet Malibu Sedan vehicles from Husker Auto Group, Lincoln, NE in an amount not to exceed \$62,400.00 (\$20,800 each).

FISCAL IMPACT

The FY23/FY24 Biennial budget provides funding for the proposed purchase.

RECOMMENDATION

Approval.

BACKGROUND

This purchase was budgeted as part of the FY23 budget to replace aging vehicles in the fleet. This purchase is being made off Nebraska State Contract. Two vehicles (\$60,000 total) were approved in the FY23 budget. A vehicle crash on December 7, 2022 resulted in the totaling of unmarked vehicle 543 (2007 Chevy Impala). Staff reviewed available fleet vehicles and recommended the Chevy Malibu, which is considerably less expensive than an unmarked SUV previously budgeted. Expected delivery and payment for these vehicles will be approximately May 2023 or later.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF THREE (3) 2023 CHEVROLET MALIBU SEDAN VEHICLES FROM HUSKER AUTO GROUP LINCOLN, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$62,400.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of three (3) unmarked police vehicles is necessary, and

WHEREAS, the FY23/FY24 Biennial Budget provides funding for the proposed purchase, and

WHEREAS, Husker Auto Group, Lincoln Nebraska was awarded the state bid for Nebraska for the 2023 Chevy Malibu vehicles and will extend that price to the City of La Vista, and

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

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the purchase of three (3) 2023 Chevrolet Malibu Sedan vehicles from Husker Auto Group, Lincoln Nebraska in an amount not to exceed \$62,400.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
DECEMBER 20, 2022 AGENDA**

| Subject: | Type: | Submitted By: |
|--|---|---|
| AUTHORIZE PURCHASE – CIS ENDPOINT SECURITY SERVICES | ◆ RESOLUTION ORDINANCE RECEIVE/FILE | RYAN SOUTH INFORMATION TECHNOLOGY MANAGER |

SYNOPSIS

A resolution has been prepared to authorize the purchase of CIS Endpoint Security Services from the Center for Internet Security in an amount not to exceed \$9,900.00.

FISCAL IMPACT

The FY23 Information Technology budget provides funding for the proposed purchase.

RECOMMENDATION

Approval.

BACKGROUND

The Center for Internet Security (CIS), in partnership with CrowdStrike, an industry leader in endpoint protection, offer a fully-managed endpoint protection solution—CIS Endpoint Security Services (ESS). This will replace our current endpoint cybersecurity service, offering additional benefits and advanced features.

CIS ESS is a solution deployed directly on endpoint devices (computers, servers, etc.) to identify, detect, respond to, and remediate security incidents and alerts. It provides comprehensive protection against a wide range of cyber threats. This helps us secure our networks, systems, and sensitive data, reducing the risk of cyber-attacks and data breaches.

Additionally, CIS ESS offers Managed Detection and Response (MDR) solutions that provide us with a full-time cybersecurity defense partner in the CIS Security Operations Center (SOC). The SOC will continuously monitor and manage the software, including analyzing malicious activity and escalating actionable threats. SOC has one of the most complete data sets in the industry related to threats facing U.S. State and Local Government organizations, including non-public known threats.

Defense at the endpoint is a vital component of our cybersecurity program. CIS ESS offers a fully-managed endpoint protection solution that is specifically tailored to meet the needs of the City and will improve our overall cybersecurity posture.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF CIS ENDPOINT SECURITY SERVICES FROM THE CENTER FOR INTERNET SECURITY IN AN AMOUNT NOT TO EXCEED \$9,900.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of CIS Endpoint Security Services is necessary; and

WHEREAS, the FY23 Information Technology budget provides funding for the proposed purchase; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska authorize the purchase of CIS Endpoint Security Services from The Center for Internet Security in an amount not to exceed \$9,900.

PASSED AND APPROVED THIS 20TH DAY OF DECEMBER 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk



Center for Internet Security, Inc.
31 Tech Valley Drive
East Greenbush, New York 12061
United States

QUOTE for City of La Vista
Quote: SQ-221208-0012299
Created Date: 12/08/2022
Valid Through: 1/18/2023
Prepared by: Mark Talty
Phone: (518) 281-9202

Quote

Address Information

Bill To:

City of La Vista
8116 Park View Blvd.
La Vista, Nebraska 68128
United States

Buying Contact: Ryan South

Buying Email: rsouth@cityoflavista.org

Ship To:

City of La Vista
8116 Park View Blvd.
La Vista, Nebraska 68128
United States

Shipping Contact: Ryan South

Shipping Email: rsouth@cityoflavista.org

Related Information

Currency: USD

Billing Frequency: One-Time

Service Lines

| Product/Service | Product Code | Date | Qty | Term | List Price | Sales Price | NET |
|--|---------------------|-----------------------|-----|--------|------------|-------------|------------|
| CIS Services MDR Advanced powered by CrowdStrike | CIS-MDR-ADV-CS-CISS | 1/31/2023 - 1/30/2024 | 165 | 12 Mon | \$5.00 | \$5.00 | \$9,900.00 |

List Price Total: \$9,900.00

Sales Price Total: \$9,900.00

Net Amount: \$9,900.00

Balance Due Amount: \$9,900.00

Standard Terms

Please note that if the purchase(s) listed above are related to a new product/service, the Date(s) are determined based upon both the order being approved and all pre service requirements met. If the purchase(s) listed above are for a renewing product/service, the Date(s) reflect the actual term.

Any taxes or fees to be collected by a taxing jurisdiction, financial institution or payment processor incidental to the payment of Products/Services by Customer to CIS shall in no way limit the amount of the Products/Services to be paid by Customer to CIS.

All rights reserved. Copyright Center for Internet Security, Inc.