

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**SEPTEMBER 17, 2024 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
CONSTRUCTION, GRADING AND SITE PREPARATION EASEMENT – SIDEWALK EASEMENT – CITY OF LA VISTA AND LA VISTA CITY CENTRE, LLC	◆ RESOLUTIONS (2) ORDINANCE RECEIVE/FILE	PAT DOWSE CITY ENGINEER

**SYNOPSIS**

Resolutions have been prepared to authorize the Mayor and City Clerk to execute documents associated with easement agreements on Lot 1 La Vista City Centre Replat Four and Lot 11 La Vista City Centre Replat Three.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

After a review of construction, grading, and site preparation easements in La Vista City Centre it was determined that the existing easements that would have allowed for the construction of improvements on Lot 12 La Vista City Centre had expired. As such, to allow for the continuance of construction activities taking place on Lot 1 La Vista City Centre Replat Four, as well as Lot 11 La Vista City Centre Replat Three, new easements are necessary. This easement provides legal allowances to the City and the developer of La Vista City Centre to access the properties included in the agreement for construction activities related to the surface parking lot and related improvements on Lot 12 La Vista City Centre Replat Three.

Additionally, it has been determined that a sidewalk easement is also necessary to allow for the construction of sidewalks connecting the parking lot to the remainder of the La Vista City Centre development. These sidewalks cross over portions of Lot 1 La Vista City Centre Replat Four and Lot 11 La Vista City Centre Replat Three at various points.

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF AN ENCROACHMENT EASEMENT AGREEMENT IN CONNECTION WITH PUBLIC IMPROVEMENTS TO BE CONSTRUCTED ON LOT 12, LA VISTA CITY CENTER REPLAT THREE.

WHEREAS, the City of La Vista owns and will construct certain public improvements on Lot 12, La Vista City Centre Replat Three that will encroach upon Lot 1 La Vista City Centre Replat Four and Lot 11 La Vista City Center Replat Three; and

WHEREAS, La Vista City Centre, LLC or any affiliated entity of La Vista City Centre, LLC, as owner of Lot 1 La Vista City Centre Replat Four and Lot 11 La Vista City Center Replat Three, finds the encroachments upon Lot 1 La Vista City Centre Replat Four and Lot 11 La Vista City Center Replat Three acceptable and is willing to grant the City of La Vista an easement for such encroachments; and

WHEREAS, a proposed Encroachment Easement Agreement is presented with this Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, do hereby approve the Encroachment Easement Agreement as presented, subject to any additions, subtractions, or modifications as the City Administrator, City Engineer, or any designee of the City Administrator or City Engineer determines necessary or appropriate ("Easement").

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute the Easement and to take all other actions as he determines necessary or appropriate to carry out this Resolution or the Easement.

PASSED AND APPROVED THIS 17TH DAY OF SEPTEMBER 2024.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, MMC  
City Clerk

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Upon Recording Return to:

Tom McKeon.  
Fitzgerald Schorr PC LLC  
200 Regency One  
10050 Regency Circle  
Omaha, NE 68114

## ENCROACHMENT EASEMENT AGREEMENT

THIS ENCROACHMENT EASEMENT AGREEMENT (this "Agreement") is made and entered into effective as of the last date executed below ("Effective Date") by and between La Vista City Centre, LLC, a Nebraska limited liability company ("Redeveloper"), and the City of La Vista, a Nebraska municipality (the "City").

WHEREAS, Redeveloper is the owner of that certain real property located in the City of La Vista, County of Sarpy, State of Nebraska, as more particularly described or depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Redeveloper Parcels");

WHEREAS, City is the owner of that certain real property in the City of La Vista, County of Sarpy, State of Nebraska, as more particularly described or depicted on Exhibit "B" attached hereto and incorporated herein by this reference (the "City Parcel");

WHEREAS, the City Parcel is immediately adjacent to the Redeveloper Parcels;

WHEREAS, the City will construct public offstreet parking, sidewalk and other improvements on the City Parcel (collectively, the "Improvements") as described or depicted on Exhibit "C", parts of which, namely parts of the public sidewalk improvements, encroach on Redeveloper Parcels as described or depicted in such Exhibit "C" ("Encroachment"); and

WHEREAS, Redeveloper desires to provide an easement with respect to such Encroachment.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, Redeveloper and City agree as follows:

1. Incorporation. The forgoing recitals and all exhibits referenced in this Agreement are incorporated into this Agreement by reference.

2. Grant of Easement. Redeveloper hereby grants and conveys unto City and City's successors and assigns a perpetual, exclusive easement for purposes of allowing the Encroachment to remain undisturbed on the Redeveloper Parcels (the "Improvements Easement").

3. Maintenance. City shall maintain the Improvements constituting the Encroachment in good condition and repair. City may, to the extent reasonably necessary, enter onto the Redeveloper Parcels for the express purpose of maintaining, inspecting, repairing, or replacing any or all of said Improvements.

4. Duration. This Agreement shall remain in effect so long as the Improvements remain in substantially the same form and location as initially constructed or replaced; and upon removal, demolition, or destruction thereof with no intent to replace or repair, this Agreement shall terminate.

5. Beneficiaries. The easement provided by this Agreement is also for the benefit of any contractor, agent, employee or representative of City.

6. Binding Effect. This Agreement is and shall be deemed to be a covenant running with the land and shall be binding upon the Parties and upon their respective successors and/or assigns until terminated as set forth herein.

7. Indemnification. Subject to applicable limitations or other provisions of the Nebraska Political Subdivisions Tort Claims Act, City shall defend, indemnify and hold harmless Redeveloper against any and all damages, losses, expenses, costs, and liabilities (including, without limitation, all interest, penalties, and attorney's fees) based upon or arising out of any claim of personal injury, property damage, or other claim proximately caused by any negligent action or inaction of the City in connection with the Improvements or its use of the easement provided by this Agreement, except for any losses, liabilities, damages, suits, claims, expenses, fees, or costs arising out of or resulting from Redeveloper's negligence or willful misconduct. In the event that Redeveloper receives notice of any claim to which the indemnification hereunder applies, Redeveloper shall inform City of the claim as soon as is reasonably possible.

8. Notice. All notices and correspondence under this Agreement shall be given by certified or registered mail or by overnight delivery with a national courier providing confirmation of delivery to the following addresses:

<u>City</u>	<u>With copies to</u>
City Clerk 8116 Park View Blvd. La Vista, NE 68128	City Administrator 8116 Park View Blvd. La Vista, NE 68128
	City Engineer 9900 Portal Road La Vista, NE 68128
	Fitzgerald Schorr, PC, LLO Attn: Tom McKeon 200 Regency One 10050 Regency Circle

Omaha, NE 68114

Redeveloper

La Vista City Centre, LLC  
Attn: Christopher L. Erickson  
222 S. 15<sup>th</sup> Street #1404S  
Omaha, NE 68102

With a copy to

Ringenberg & Rattner Law  
Attn: Kendra J. Ringenberg  
14301 FNB Parkway, Suite 204  
Omaha, Nebraska 68154

9. Severability. If any portion of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision the same would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

10. Waiver. The failure of either Party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with each and every provision of this Agreement.

11. Headings. The section headings appearing herein are for convenience of the Parties only and do not affect, define, limit, or construe the contents of the various sections in this Agreement.

12. Governing Law; Jury Trial Waiver; Consent to Jurisdiction and Choice of Venue. This Agreement is made and delivered in the State of Nebraska, and shall be governed by the laws thereof. Any suit in connection with this Agreement shall be filed and maintained in the District Court of Sarpy County. All parties consent to jurisdiction of said court and agree that venue is proper.

13. Entire Agreement; Amendment. Each person signing this Agreement on behalf of a Party acknowledges that he/she has read and fully understands the contents of this Agreement. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior oral or written negotiations, representations, or agreements, with respect to the subject matter hereof. This Agreement may be modified only by written instrument duly authorized and executed by all Parties.

14. Counterparts. This Agreement may be executed in two or more counterparts, which when taken together, shall constitute one and the same instrument. The parties may execute this Agreement and exchange counterparts by means of electronic transmission and the parties agree that the receipt of such executed counterparts shall be binding on the parties and shall be construed as originals.

[Remainder of Page Intentionally Left Blank.  
Signature Pages to Follow.]

IT WITNESS WHEREBY, the Parties have executed this Agreement as of the Effective Date.

CITY OF LA VISTA:

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Douglas Kindig, Mayor

City of La Vista

ATTEST:

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Pamela A. Buethe, City Clerk, CMC

STATE OF NEBRASKA )

)ss.

COUNTY OF SARPY )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Douglas Kindig and Pamela A. Buethe, personally known by me to be the Mayor and City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Agreement, and acknowledged the execution thereof on behalf of the City to be their voluntary act and deed and the voluntary act and deed of said City.

[Seal]

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Notary Public

LA VISTA CITY CENTRE, LLC,  
a Nebraska limited liability company

By: \_\_\_\_\_

Christopher L. Erickson, Manager

STATE OF NEBRASKA )  
                         )ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Christopher L. Erickson, Manager of La Vista City Centre, LLC, a Nebraska limited liability company, personally known to me, and the identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof on behalf of La Vista City Centre, LLC to be his voluntary act and deed and the voluntary act and deed of said La Vista City Centre, LLC.

[Seal]

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Notary Public

**EXHIBIT “A”**

Redeveloper Parcels

Lot 1, La Vista City Centre Replat Four, City of La Vista, Sarpy County, NE

Lot 11, La Vista City Centre Replat Three, City of La Vista, Sarpy County, NE

**EXHIBIT “B”**

City Parcel

Lot 12, La Vista City Centre Replat Three, City of La Vista, Sarpy County, NE

EXHIBIT C

LOT 1 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

A TRACT OF LAND LOCATED IN PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6th P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST PROPERTY CORNER OF LOT 1 LA VISTA CITY CENTRE; THENCE SOUTH 02° 32' 32" EAST (ASSUMED BEARING) ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 42.00 FEET (BEARINGS REFERENCE TO THE FINAL PLAT OF LA VISTA CITY CENTRE REPLAT 4, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA) TO THE POINT OF BEGINNING; THENCE NORTH 87° 27' 28" EAST A DISTANCE OF 20.00 FEET; THENCE SOUTH 02° 32' 32" EAST ALONG A LINE 20.00 EAST AND PARALLEL TO THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 247.85 FEET; THENCE SOUTH 47° 22' 53" EAST A DISTANCE OF 17.87 FEET TO THE SOUTHERN PROPERTY LINE OF SAID LOT 1; THENCE SOUTH 42° 37' 07" WEST ALONG THE SOUTHERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 20.00 FEET; THENCE NORTH 26° 24' 24" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1 A DISTANCE OF 75.83 FEET; THENCE NORTH 26° 24' 24" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1 A DISTANCE OF 75.83 FEET; THENCE CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1 ALONG A CURVE TO THE RIGHT (HAVING A RADIUS OF 5.00 FEET AND A CHORD BEARING NORTH 14° 23' 38" WEST FOR 2.08 FEET) FOR AN ARC LENGTH OF 2.10 FEET; THENCE NORTH 02° 22' 53" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 32.57 FEET; THENCE NORTH 87° 37' 07" EAST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 12.60 FEET; THENCE NORTH 02° 32' 32" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 170.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 5,873.51 SQUARE FEET, MORE OR LESS.

EXHIBIT C

LOT 1 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

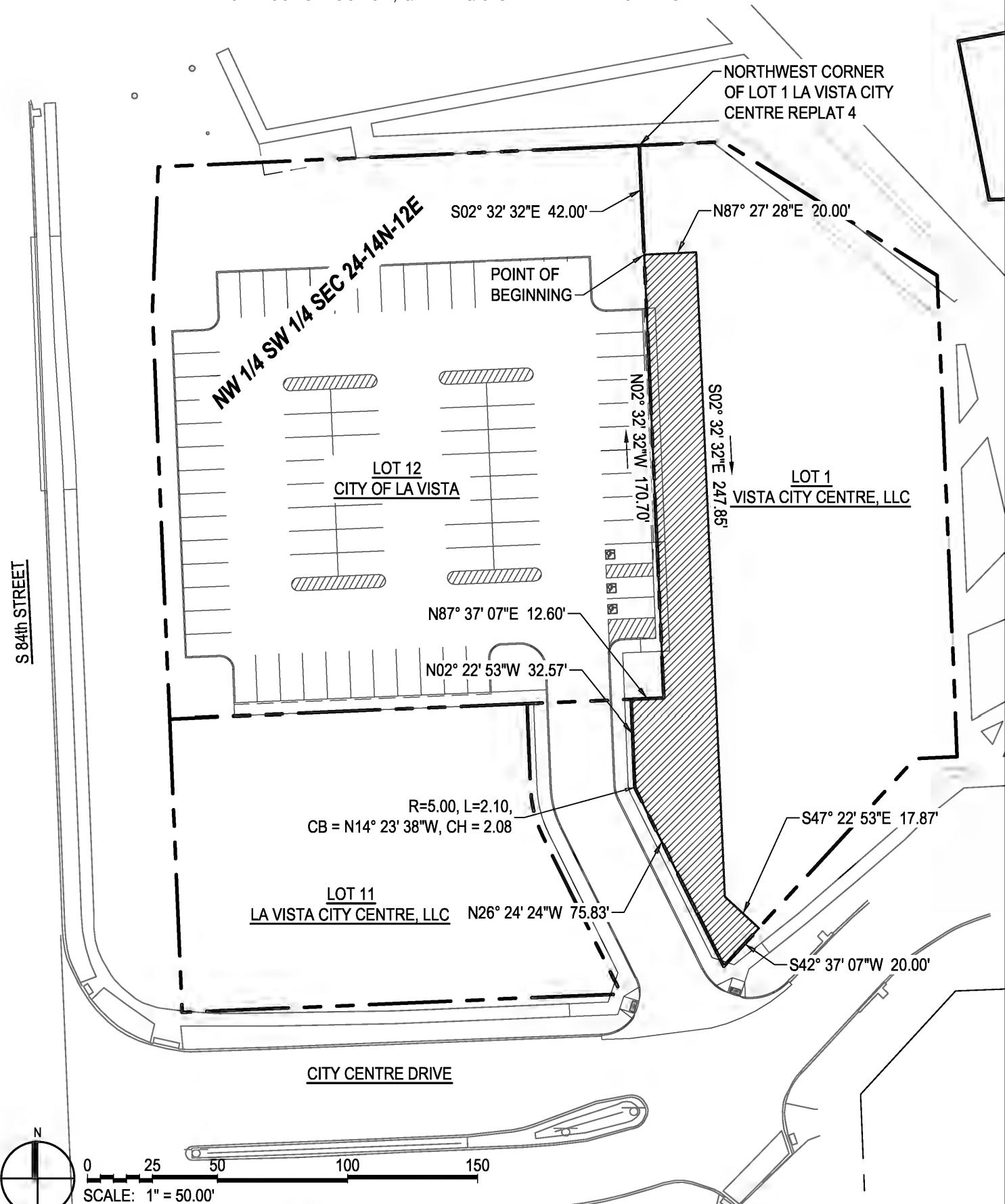


EXHIBIT C

LOT 11 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

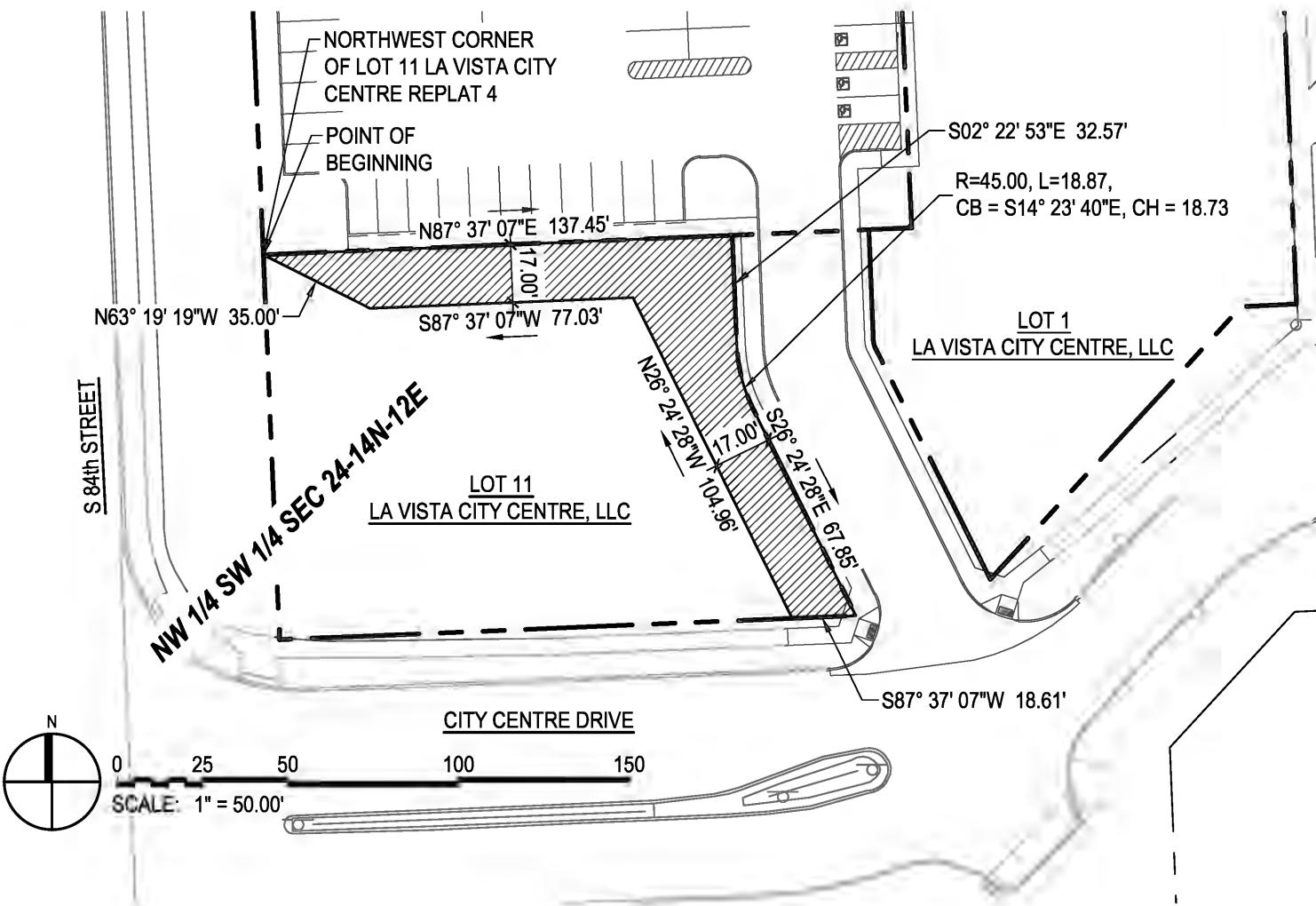


EXHIBIT C

LOT 11 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

A TRACT OF LAND LOCATED IN PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6th P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST PROPERTY CORNER OF LOT 11 LA VISTA CITY CENTRE; SAID PROPERTY CORNER ALSO BEING THE POINT OF BEGINNING, THENCE NORTH 87° 37' 07" EAST (ASSUMED BEARING) ALONG THE NORTHERLY PROPERTY LINE OF SAID LOT 11, A DISTANCE OF 137.45 FEET (BEARINGS REFERENCE TO THE FINAL PLAT OF LA VISTA CITY CENTRE REPLAT 3, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA); THENCE SOUTH 02° 22' 53" EAST ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 11, A DISTANCE OF 32.57 FEET; THENCE CONTINUING ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 11 ALONG A CURVE TO THE RIGHT (HAVING A RADIUS OF 45.00 FEET AND A CHORD BEARING SOUTH 14° 23' 40" EAST FOR 18.73 FEET) FOR AN ARC LENGTH OF 18.87 FEET; THENCE SOUTH 26° 24' 28" EAST CONTINUING ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 11, A DISTANCE OF 67.85 FEET TO THE SOUTHEAST PROPERTY CORNER OF SAID LOT 11; THENCE SOUTH 87° 37' 07" WEST A DISTANCE OF 18.61 FEET; THENCE NORTH 26° 24' 28" WEST, ALONG A LINE 17.00 FEET WEST AND PARALLEL TO THE EASTERLY PROPERTY LINE OF LOT 11, A DISTANCE OF 104.96 FEET; THENCE SOUTH 87° 37' 07" WEST, ALONG A LINE 17.00 FEET SOUTH AND PARALLEL TO THE NORTHERLY PROPERTY LINE OF LOT 11, A DISTANCE OF 77.03 FEET; THENCE NORTH 63° 19' 19" WEST, A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 4,008.23 SQUARE FEET, MORE OR LESS.

**EXHIBIT “C”**

Description or Depiction of Improvements and Encroachment

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONSTRUCTION, GRADING AND SITE PREPARATION EASEMENT IN CONNECTION WITH PUBLIC IMPROVEMENTS TO BE CONSTRUCTED ON LOT 12, LA VISTA CITY CENTER REPLAT THREE.

WHEREAS, the City of La Vista ("City") owns and will construct certain public improvements on Lot 12, La Vista City Centre Replat Three; and

WHEREAS, La Vista City Centre LLC, ("Redeveloper") owns Lot 1 La Vista City Centre Replat Four and Lot 11, La Vista City Centre Replat Three (together "Redeveloper Property"); and

WHEREAS, the City requires an easement over the Redeveloper Property for the purposes of construction, grading and site preparation on Lot 12, La Vista City Centre Replat Three, and Redeveloper desires to grant such easement; and

WHEREAS, a proposed Construction, Grading and Site Preparation Easement is presented with this Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, do hereby approve the Construction, Grading and Site Preparation Easement as presented, subject to any additions, subtractions, or modifications as the City Administrator, City Engineer, or any designee of the City Administrator or City Engineer determines necessary or appropriate ("Easement");

BE IT FURTHER RESOLVED, that the Mayor is authorized to execute the Easement and to take all other actions as he determines necessary or appropriate to carry out this Resolution or the Easement.

PASSED AND APPROVED THIS 17TH DAY OF SEPTEMBER 2024.

CITY OF LA VISTA

---

Douglas Kindig, Mayor

ATTEST:

---

Pamela A. Buethe, MMC  
City Clerk

---

Upon Recording Return to:  
Tom McKeon.  
Fitzgerald Schorr, PC, LLO  
200 Regency One  
10050 Regency Circle  
Omaha, NE 68114

### **CONSTRUCTION, GRADING AND SITE PREPARATION EASEMENT**

THIS CONSTRUCTION, GRADING AND SITE PREPARATION EASEMENT ("Easement" or "Agreement") is made and entered into effective as of the last date executed below ("Effective Date"), by and between La Vista City Centre, LLC, a Nebraska limited liability company ("Redeveloper") and the City of La Vista, a municipal corporation in Sarpy County, Nebraska ("City").

WHEREAS, Redeveloper is the owner of certain real property located in the City of La Vista, County of Sarpy, State of Nebraska, as more particularly described or depicted on Exhibit "A" attached hereto and incorporated herein by this reference (the "Redeveloper Parcels");

WHEREAS, City is the owner of certain real property located in the City of La Vista, County of Sarpy, State of Nebraska, as more particularly described or depicted on Exhibit "B" attached hereto and incorporated herein by this reference (the "City Property");

WHEREAS, the City Parcel is immediately adjacent to the Redeveloper Parcels;

WHEREAS, the City will construct public offstreet parking, sidewalk and other improvements on the City Parcel (collectively, the "Improvements") as described or depicted in Exhibit "C" attached hereto and incorporated herein by reference, and in connection with such Improvements requires a construction, grading and site preparation easement on the Redeveloper Parcels; and

WHEREAS, Redeveloper desires to grant such easement over the Redeveloper Parcels to the City for such purposes.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Redeveloper and City agree as follows:

1. Incorporation. The forgoing recitals and all exhibits referenced in this Easement are incorporated into this Easement by reference.

2. Grant of Construction, Grading and Site Preparation Easement.

a. City Easement. Subject to the terms of this Easement, Redeveloper hereby grants to City a non-exclusive easement over the Redeveloper Parcels for the purposes of staging, access, grading, site preparation and other uses in connection with construction of the Improvements, as initially described on Exhibit "D" attached hereto and incorporated herein by this reference and including without limitation, grading, temporary or permanent removal or relocation of soils, storage of materials or equipment, and other uses or work in preparation for or to construct the Improvements on the City Property as the City Engineer determines necessary (the "Uses"). For purposes of this Easement, the City Administrator, City Engineer, or her or his designee shall be authorized to make all determinations regarding the Uses and construction of the Improvements, including without limitation time of commencement, which may begin upon such approvals of the City Council as the City Administrator, City Engineer, or such designee determines sufficient. Upon completing the Improvements, City promptly shall, remove from Redeveloper Parcels any and all materials, debris and equipment connected with such work. City agrees to keep the Redeveloper Parcels free and clear of liens for labor and material expended by City. City shall not transfer, assign or otherwise convey any interest City has in the Easement without prior written consent of Redeveloper.

3. Beneficiaries. This Easement is also for the benefit of any contractor, agent, employee and representative of City that performs any of the Uses or work to construct the Improvements.

4. Term. This Easement runs with the land and shall be binding on the parties and their respective successors and assigns during the Term (as hereinafter defined). The Easement shall commence as of the Effective Date and shall terminate upon completion of the Improvements (the "Term"), after which City shall execute a release of this Easement if requested by Redeveloper. Notwithstanding the foregoing, the City shall continue to have access to the Redeveloper Parcels as needed for any follow-up actions to the Uses or construction of the Improvements, provided such follow-up actions do not materially interfere with Redeveloper's use of the Redeveloper Parcels.

5. Indemnification. Subject to applicable limitations or other provisions of the Nebraska Political Subdivisions Tort Claims Act, City shall defend, protect, indemnify, and hold harmless Redeveloper against any and all damages, losses, expenses, costs, and liabilities (including, without limitation, all interest, penalties, and attorney's fees) based upon or arising out of any claim of personal injury, property damage, or other claim proximately caused by any negligent action or inaction of the City in connection with the Improvements or its use of the Easement, except for any losses, liabilities, damages, suits, claims, expenses, fees, or costs arising out of or resulting from Redeveloper's negligence or willful misconduct. In the event that Redeveloper receives notice of any claim to which the indemnification hereunder applies, Redeveloper shall inform City of the claim as soon as is reasonably possible.

6. Notices. All notices and correspondence under this Easement shall be given by certified or registered mail or by overnight delivery with a national courier providing confirmation of delivery to the following addresses:

<u>City</u>	<u>With copies to</u>
City Clerk 8116 Park View Blvd. La Vista, NE 68128	City Administrator 8116 Park View Blvd. La Vista, NE 68128
	City Engineer 9900 Portal Road La Vista, NE 68128
	Fitzgerald Schorr, PC, LLO Attn: Tom McKeon 200 Regency One 10050 Regency Circle Omaha, NE 68114
<u>Redeveloper</u>	<u>With a copy to</u>
La Vista City Centre Attn: Christopher L. Erickson 222 S. 15 <sup>th</sup> Street #1404S Omaha, NE 68102	Ringenberg & Rattner Law Attn: Kendra J. Ringenberg 14301 FNB Parkway, Suite 204 Omaha, Nebraska 68154

7. Severability. If any portion of this Easement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision(s) of this Easement are invalid or unenforceable, but that by limiting such provision(s) the same would become valid and enforceable, then such provision(s) shall be deemed to be written, construed, and enforced as so limited.

8. Waiver. The failure of Redeveloper or City to enforce any provision of this Easement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with each and every provision of this Easement.

9. Headings. The section headings appearing herein are for the convenience of the parties only and do not affect, define, limit or construe the contents of the various sections in the Easement.

10. Governing Law; Jury Trial Waiver; Consent to Jurisdiction and Choice of Venue. This Agreement is made and delivered in the State of Nebraska, and shall be governed by the laws thereof. Any suit in connection with this Agreement shall be filed and maintained in the District Court of Sarpy County. All parties consent to jurisdiction of said court and agree that venue is proper.

11. Entire Agreement; Amendment. Each person signing this Agreement on behalf of a Party acknowledges that he/she has read and fully understands the contents of this Agreement. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior oral or written negotiations, representations, or agreements, with respect to the subject matter hereof. This Agreement may be modified only by written instrument duly authorized and executed by all Parties.

12. Counterparts. This Agreement may be executed in two or more counterparts, which when taken together, shall constitute one and the same instrument. The parties may

execute this Agreement and exchange counterparts by means of electronic transmission and the parties agree that the receipt of such executed counterparts shall be binding on the parties and shall be construed as originals.

**[Remainder of Page Intentionally Left Blank; Signature Page Follows]**

IN WITNESS WHEREOF, the parties have executed this Easement as of the Effective Date.

CITY OF LA VISTA:

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Douglas Kindig, Mayor

City of La Vista

ATTEST:

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Pamela A. Buethe, City Clerk, CMC

STATE OF NEBRASKA )

)ss.

COUNTY OF SARPY )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Douglas Kindig and Pamela A. Buethe, personally known by me to be the Mayor and City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Agreement, and acknowledged the execution thereof on behalf of the City to be their voluntary act and deed and the voluntary act and deed of said City.

[Seal]

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Notary Public

LA VISTA CITY CENTRE, LLC,  
a Nebraska limited liability company

By: \_\_\_\_\_

Christopher L. Erickson, Manager

STATE OF NEBRASKA )

)ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 2024, before me, a Notary Public duly commissioned and qualified in and for said County and State, appeared Christopher L. Erickson, Manager of La Vista City Centre, LLC, a Nebraska limited liability company, personally known to me, and the identical person whose name is affixed to the foregoing Agreement, and acknowledged the execution thereof on behalf of La Vista City Centre, LLC to be his voluntary act and deed and the voluntary act and deed of said La Vista City Centre, LLC.

[Seal]

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**  
**REDEVELOPER PARCELS**

Lot 1, La Vista City Centre Replat Four, City of La Vista, Sarpy County, NE

Lot 11, La Vista City Centre Replat Three, City of La Vista, Sarpy County, NE

**EXHIBIT "B"**

**CITY PARCEL**

Lot 12, La Vista City Centre Replat Three, City of La Vista, Sarpy County, NE

**EXHIBIT “C”**

**IMPROVEMENTS**

EXHIBIT C

LOT 1 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

A TRACT OF LAND LOCATED IN PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6th P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST PROPERTY CORNER OF LOT 1 LA VISTA CITY CENTRE; THENCE SOUTH 02° 32' 32" EAST (ASSUMED BEARING) ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 42.00 FEET (BEARINGS REFERENCE TO THE FINAL PLAT OF LA VISTA CITY CENTRE REPLAT 4, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA) TO THE POINT OF BEGINNING; THENCE NORTH 87° 27' 28" EAST A DISTANCE OF 20.00 FEET; THENCE SOUTH 02° 32' 32" EAST ALONG A LINE 20.00 EAST AND PARALLEL TO THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 247.85 FEET; THENCE SOUTH 47° 22' 53" EAST A DISTANCE OF 17.87 FEET TO THE SOUTHERN PROPERTY LINE OF SAID LOT 1; THENCE SOUTH 42° 37' 07" WEST ALONG THE SOUTHERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 20.00 FEET; THENCE NORTH 26° 24' 24" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1 A DISTANCE OF 75.83 FEET; THENCE NORTH 26° 24' 24" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1 A DISTANCE OF 75.83 FEET; THENCE CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1 ALONG A CURVE TO THE RIGHT (HAVING A RADIUS OF 5.00 FEET AND A CHORD BEARING NORTH 14° 23' 38" WEST FOR 2.08 FEET) FOR AN ARC LENGTH OF 2.10 FEET; THENCE NORTH 02° 22' 53" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 32.57 FEET; THENCE NORTH 87° 37' 07" EAST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 12.60 FEET; THENCE NORTH 02° 32' 32" WEST CONTINUING ALONG THE WESTERLY PROPERTY LINE OF SAID LOT 1, A DISTANCE OF 170.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 5,873.51 SQUARE FEET, MORE OR LESS.

EXHIBIT C

LOT 1 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

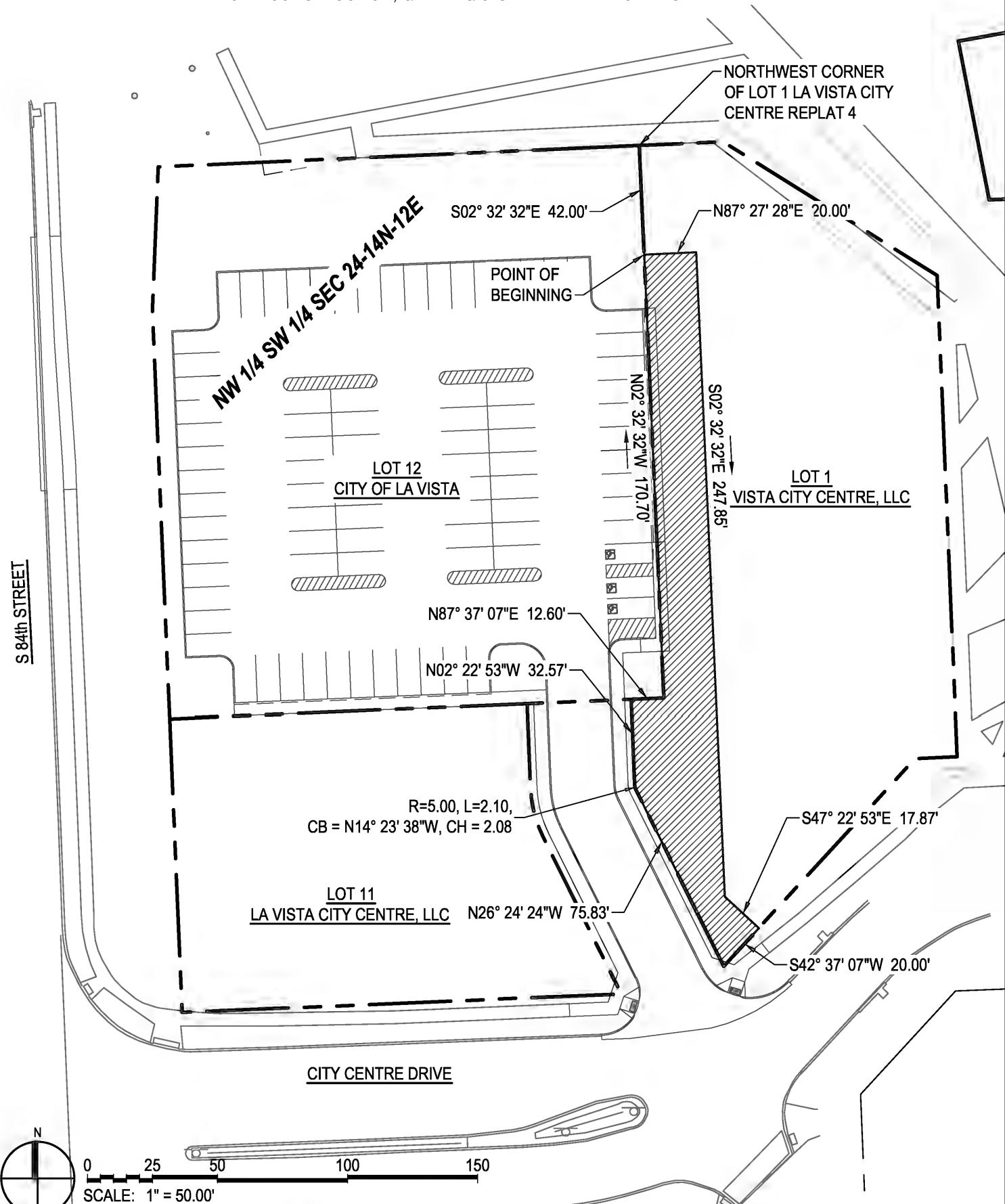


EXHIBIT C

LOT 11 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

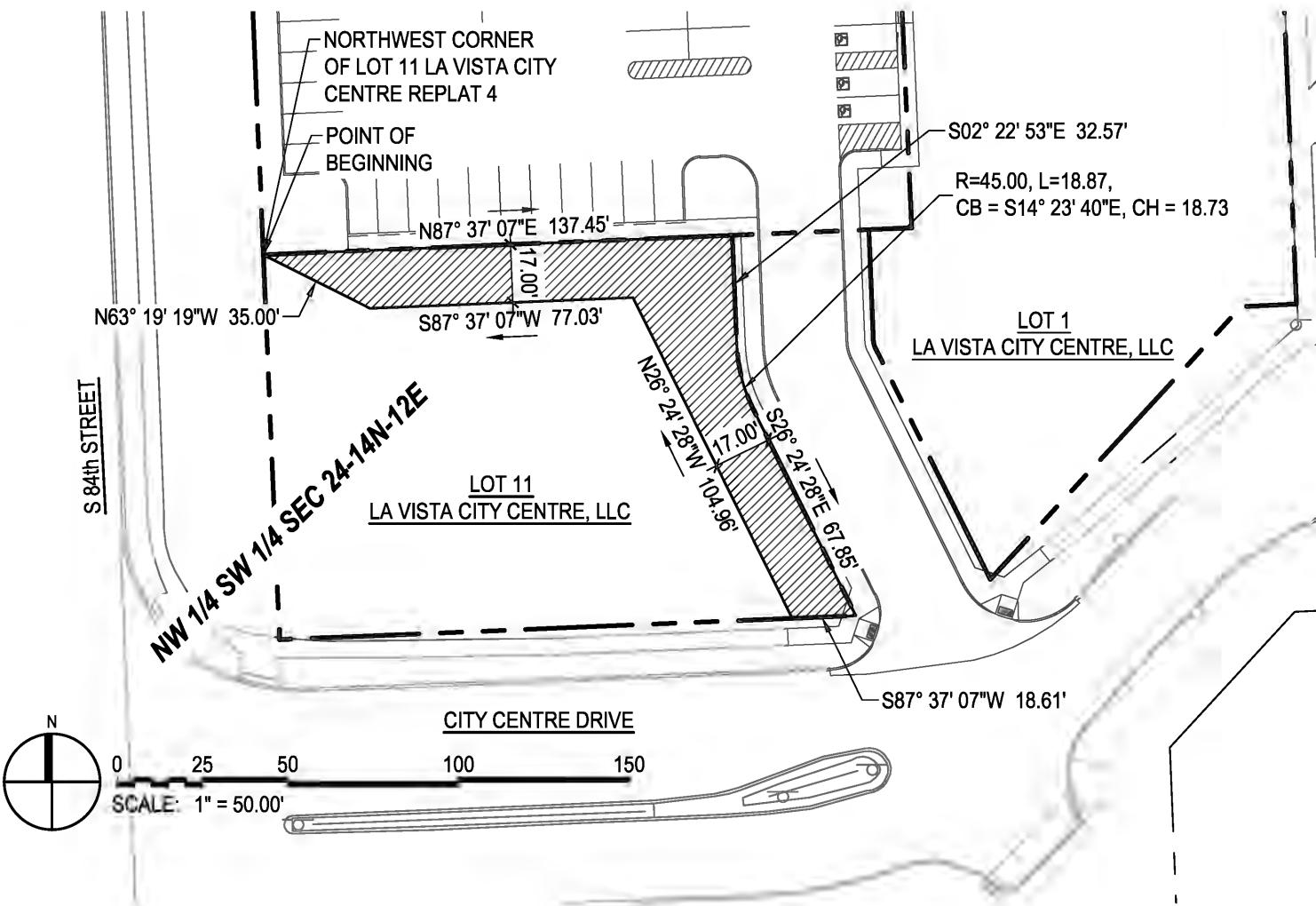


EXHIBIT C

LOT 11 CONSTRUCTION, GRADING & SITE PREPARATION EASEMENT

A TRACT OF LAND LOCATED IN PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6th P.M., SARPY COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST PROPERTY CORNER OF LOT 11 LA VISTA CITY CENTRE; SAID PROPERTY CORNER ALSO BEING THE POINT OF BEGINNING, THENCE NORTH 87° 37' 07" EAST (ASSUMED BEARING) ALONG THE NORTHERLY PROPERTY LINE OF SAID LOT 11, A DISTANCE OF 137.45 FEET (BEARINGS REFERENCE TO THE FINAL PLAT OF LA VISTA CITY CENTRE REPLAT 3, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN SARPY COUNTY, NEBRASKA); THENCE SOUTH 02° 22' 53" EAST ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 11, A DISTANCE OF 32.57 FEET; THENCE CONTINUING ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 11 ALONG A CURVE TO THE RIGHT (HAVING A RADIUS OF 45.00 FEET AND A CHORD BEARING SOUTH 14° 23' 40" EAST FOR 18.73 FEET) FOR AN ARC LENGTH OF 18.87 FEET; THENCE SOUTH 26° 24' 28" EAST CONTINUING ALONG THE EASTERLY PROPERTY LINE OF SAID LOT 11, A DISTANCE OF 67.85 FEET TO THE SOUTHEAST PROPERTY CORNER OF SAID LOT 11; THENCE SOUTH 87° 37' 07" WEST A DISTANCE OF 18.61 FEET; THENCE NORTH 26° 24' 28" WEST, ALONG A LINE 17.00 FEET WEST AND PARALLEL TO THE EASTERLY PROPERTY LINE OF LOT 11, A DISTANCE OF 104.96 FEET; THENCE SOUTH 87° 37' 07" WEST, ALONG A LINE 17.00 FEET SOUTH AND PARALLEL TO THE NORTHERLY PROPERTY LINE OF LOT 11, A DISTANCE OF 77.03 FEET; THENCE NORTH 63° 19' 19" WEST, A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS 4,008.23 SQUARE FEET, MORE OR LESS.

**DLR GROUP**

© DLR Group

6457 FRANCES STREET  
OMAHA, NE 68106  
NE CERTIFICATION OF AUTHORIZATION #CA-0404

C-1

(Project Number)  
10-17105-42  
(Date)  
08.30.2024

LVCC - LOT 12 PARKING  
CITY OF LA VISTA

EXHIBIT C - LOT 11 GRADING EASEMENT

LOT 12 - LVCC  
LA VISTA, NE 68128

## **EXHIBIT “D”**

### **USES**

“Uses” for purposes of this Easement on Redeveloper Parcels means:

:

1. Earthwork testing, including observations, density tests, settlement plates and other inspections by City engineers.
2. Earthwork on City Parcel and Redeveloper Parcels and adjacent areas pursuant to a grading plan approved by City Engineer, subject to any subsequent modifications as the City Engineer determines necessary or appropriate.
3. Borrow soil from Redeveloper Parcels, if required by such grading plan. Seeding of the soil borrow area by City.
4. Provide soil to Redeveloper Parcels, if required by such grading plan. Seeding of deposited soil by City.
5. Construction staging and access on Redeveloper Parcels.
6. Equipment and material storage in connection with the Improvements or Uses on Redeveloper Parcels.