

ORDINANCE RECORD

No. 728—REDFIELD & COMPANY INC., OMAHA

ORDINANCE NO. 1332

AN ORDINANCE VACATING, AND RESERVING AND RETAINING TITLE IN THE CITY TO, AND DIRECTING THE SALE AND CONVEYANCE OF, A PART OF GERTRUDE STREET RIGHT-OF-WAY LOCATED IN THE NW ¼ OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

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

Section 1. It is hereby declared necessary, expedient, proper and for the public good to vacate, and for the City to reserve and retain title to (for sale and conveyance of), a part of Gertrude Street right-of-way located in the NW ¼ of Section 14, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, ("Property"); and said Property is hereby vacated and the City reserves and retains title thereto for sale and conveyance thereof as directed in Section 2 below. Such vacation shall be effective upon completion of such sale and conveyance. The effective date of the vacation shall be the date that the quitclaim deed described in Section 2 below is filed with the Sarpy County Register of Deeds.

Section 2. Upon request and payment of adequate consideration and such costs and fees incurred by the City in connection with the vacation, sale and conveyance of the Property, the City shall provide a quitclaim deed selling and conveying the Property to Harvest Development III L.L.C. ("Harvest Development"), subject to the rights, conditions and limitations set forth in this Section 2 below, and in accordance with the manner and terms of conveyance specified in Exhibit B attached hereto and incorporated herein by this reference, which rights, conditions, limitations, manner and terms are hereby deemed to be in the best interests of the City; and all of which rights, conditions, limitations, manner and terms shall constitute covenants running with the land and continue in perpetuity and be binding on Harvest Development and all successors or assigns of Harvest Development or the Property.

- a. In addition to any reserved rights provided elsewhere in this Ordinance or in any document or instrument of conveyance or under applicable law, the following rights, conditions and limitations shall be reserved in perpetuity to the City of La Vista with respect to the Property:
 - i. the right to maintain, operate, repair, replace, extend and renew sewers and other improvements now existing in, on, over, under or across the Property and in the future to construct, maintain, repair, replace, extend and renew additional or other sewers and improvements;
 - ii. the right to authorize public utilities, cable television companies and other persons, systems or services to construct, maintain, repair, replace, renew, extend and operate now or hereafter installed water mains and gas mains, poles, lines, conduits, equipment and appurtenances above, in, on, over, across or below the surface of the ground for the purpose of serving the general public or abutting property;
 - iii. the right to authorize such connections or branch lines as may be ordered, desired or permitted by the City or such other utility, person, system or service; and
 - iv. the right to enter upon the Property to accomplish the above or to enforce or exercise any other rights or requirements set forth in this Ordinance or under any applicable laws, rules, or regulations, and any related or similar purposes at any and all times.

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- b. Due to unique location of the Property, including without limitation, its proximity adjacent to a townhome complex, and Harvest Development's representation of a desire to acquire the Property for the sole purpose of locating, constructing, maintaining, and making the Property available as a neighborhood dog park for use of the general public, Harvest Development and the City are in agreement that the Property shall be conveyed to Harvest Development for the following purposes and subject to the following conditions:
- i. Harvest Development at its sole cost and expense shall construct, maintain and use the Property as a neighborhood dog park that is accessible and available for use of the general public without charge or cost of admission and has such improvements, operations, and rules as satisfactory to the City Administrator from time to time in her sole discretion. Any use of the Property for any other purpose shall be subject to approval of the City Council in its sole discretion.
 - ii. Construction, maintenance, and use of the Property for the purposes described in subsection "i" above shall be subject to satisfaction of all applicable federal, state and local laws, rules, and regulations, including without limitation, any applicable permitting requirements;
 - iii. The design, layout, fencing and any other amenities or improvements of, on, or serving the Property, and all operating and maintenance rules or requirements applicable to the Property, shall be subject to approval of the City Administrator in her sole discretion; and
 - iv. All parts of the Property that have or are designed to have turf grass, and any part of the Property that at any time is not used for purposes described in this subsection "b," shall be maintained as a lawn, in a manner and condition equal to or better than existing at closing on Harvest Development's purchase of the Property, and for no other purposes.

("Permitted Purposes").

Harvest Development shall take title to the Property subject to the Permitted Purposes, and after closing on the Property, Harvest Development shall use the Property exclusively for the Permitted Purposes and for no other purposes. In addition to, and not in limitation of the foregoing, Harvest Development at all times shall maintain or contract for the maintenance of all turf grass and other areas designed to have the lawn on the Property in a healthy, clean, neat and trim manner, condition and appearance that is equal to or better than the level, manner, condition and appearance in effect upon closing on Harvest Development's purchase of the Property.

- c. All or any vegetation now or hereafter upon the Property, including, but not limited to, lawns, trees, shrubs and crops, and all or any improvements and structures now or hereafter upon the Property, including, but not limited to walls, fences, paving, signs and walks, may be damaged or removed by or as authorized by the City as necessary or appropriate in the exercise of the rights herein reserved without any requirement of restoration or compensation to any person.

Such conveyance shall be executed by the Mayor and City Clerk, who are hereby authorized to take such action.

Section 3. The City Clerk is hereby authorized and directed to publish notice of the sale of the Property specified in Exhibit A and the terms of such sale in accordance with the requirements of Section 16-202 of the Revised Statutes of Nebraska.

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

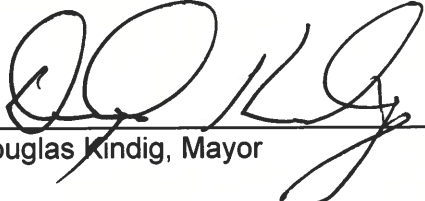
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PASSED AND APPROVED THIS 18TH DAY OF SEPTEMBER, 2018.

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:



Pamela A. Buethe, CMC
City Clerk

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