

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JUNE 5, 2018 AGENDA**

Subject:	Type:	Submitted By:
AMENDMENT TO INTERLOCAL AGREEMENT – SARPY COUNTY AND CITIES WASTEWATER AGENCY	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE DIRECTOR OF PUBLIC WORKS

SYNOPSIS

A resolution has been prepared to approve an amendment to the Interlocal Agreement creating the Sarpy County and Cities Wastewater Agency.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval

BACKGROUND

On September 19, 2017, City Council approved Resolution 17-112 to approve an Interlocal Cooperation Agreement with Sarpy County and the Cities of Bellevue, Gretna, Papillion and Springfield to create the Sarpy County and Cities Wastewater Agency.

The Agreement identifies certain calendar deadlines for the consideration and approval of the Annual Budget by the Agency and its Members. The calendar deadlines have been determined not to be feasible for the initial developmental period of the Agency, and as a result, it is recommended that the time deadlines under Section IX of the Interlocal Agreement be amended to provide more time and flexibility to the Agency and its Members to consider, discuss and approve the Agency's Annual Budget.

A redlined copy of the changes to Section IX of the Interlocal Agreement has been included for your review.

RESOLUTION NO. ____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE AMENDMENT TO THE INTERLOCAL AGREEMENT CREATING THE SARPY COUNTY AND CITIES WASTEWATER AGENCY

WHEREAS, the City of La Vista is a party to an agreement (the "Agreement") entered into pursuant to the Interlocal Cooperation Act, set out at Neb. Rev. Stat. § 13-801 et seq. (the "Act"), by and between Sarpy County and the Cities of Papillion, Bellevue, Springfield, La Vista and Gretna (the "Members"), which formed the interlocal agency called the Sarpy County and Cities Wastewater Agency (the "Agency"); and

WHEREAS, pursuant to Section XVII of the Agreement, the Agency Board may amend the Agreement upon the execution of a written amendment by the governing bodies of all Members, and the approval of resolutions adopting the terms of the written amendment by the governing body of each Member; and

WHEREAS, the Agency Board has determined that the time deadlines under Section IX of the Interlocal Agreement should be amended to provide more time and flexibility to the Agency and its Members to consider, discuss and approve the Agency's Annual Budget; and

WHEREAS, the Agency Board has discussed and approved the proposed amendment to Section IX of the Agency Formation Agreement, as attached hereto as Exhibit A (hereinafter the "Amendment"); and

WHEREAS, the redline comparison of the revisions made to Section IX of the Agency Formation Agreement by the Amendment is attached hereto as Exhibit B; and

WHEREAS, the City Council deems it appropriate and advisable to adopt the terms of the Amendment.

NOW, THEREFORE, BE IT RESOLVED BY the City Council of La Vista, Nebraska that the terms of the Amendment are hereby adopted; and

IT BE FURTHER RESOLVED BY the City Council that the Mayor hereby has the authority to execute the Amendment on behalf of the City Council.

PASSED AND APPROVED THIS 5TH DAY OF JUNE, 2018.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
Deputy City Clerk

Amendment to the Agency Formation Agreement

AMENDMENT

THIS AMENDMENT is entered into by and between the County of Sarpy, Nebraska, the City of Papillion, Nebraska, the City of Bellevue, Nebraska, the City of Springfield, Nebraska, the City of LaVista, Nebraska, and the City of Gretna, Nebraska (collectively, the “Members”).

WHEREAS, the Members entered into an Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency in September 2017 (the “Interlocal Agreement”);

WHEREAS, the Interlocal Agreement sets forth procedures for the preparation, approval and amendment of the Sarpy County and Cities Wastewater Agency’s (“Agency’s”) Annual Budget in Section IX of the Interlocal Agreement;

WHEREAS, Section IX of the Interlocal Agreement identifies certain calendar deadlines for the consideration and approval of the Annual Budget by the Agency and its Members;

WHEREAS, the calendar deadlines are not feasible for the initial developmental period of the Agency;

WHEREAS, Section XVII of the Interlocal Agreement allows for amendment of the Interlocal Agreement through approval by the governing bodies of the Members; and

WHEREAS, the Members have determined that the time deadlines under Section IX of the Interlocal Agreement should be amended to provide more time and flexibility to the Agency and its Members to consider, discuss and approve the Agency’s Annual Budget.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Interlocal Agreement and stated herein, the parties agree as follows:

A) Section IX of the Interlocal Agreement is hereby deleted in its entirety and replaced with the following:

SECTION IX. ANNUAL BUDGET

- A. The Agency Board shall prepare an itemized annual budget for the upcoming fiscal year which, upon approval of the Agency Board, shall be presented to and subject to approval of the individual governing body of each Member. Such annual budget for the upcoming fiscal year shall be considered by the governing body of each Member within thirty (30) days of the Agency Board’s approval of the annual budget. The exercise of any Agency powers involving financial commitments of any Member(s) must be included in the annual budget, unless otherwise approved by the governing bodies of all such Member(s) pursuant to an applicable Service Agreement. Upon the approval of the annual budget by the governing bodies of all Members, such budget shall immediately be considered adopted and effective to bind the Agency for the upcoming fiscal year.
- B. In the event the governing body of any individual Member does not approve the annual budget for an upcoming fiscal year within thirty (30) days of the Agency Board’s approval, the annual budget shall be revised by the Agency Board so that no new financial obligations for such non-

approving Member shall be included within the revised annual Agency budget and no new Agency projects located within such non-approving Member's corporate limits, ETJ, or Designated Wastewater Service Area, shall be included within the revised annual Agency budget. Additionally, the annual budget shall be revised by the Agency Board so that no new Agency projects shall be located within such non-approving Member's "area of future growth and development" under the maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., but only in those instances where more than fifty percent of any such new Agency project is proposed to be located within such non-approving Member's "area of future growth and development" as determined by linear measure. In the event fifty percent or less of any new Agency project is proposed to be located within such non-approving Member's "area of future growth and development," the foregoing prohibition shall not apply and such new Agency project may be located within such non-approving Member's "area of future growth and development" without the need to obtain such non-approving Member's authorization.

- C. Any revisions that are made to an annual budget for an fiscal year pursuant to Section IX(B) shall not relieve the non-approving Member from any existing financial obligations approved as part of a previous fiscal year's budget or as part of a previous agreement to which the non-approving Member was a party, nor shall it relieve the Agency from any existing project obligations located within the non-approving Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area that were approved as payment of a previous annual budget or by a previous agreement to which the Agency was a party. After such revisions have been prepared and approved by the Agency Board, the revised annual Agency budget shall be presented to the governing body of each Member. A revised annual Agency budget shall be considered sufficiently adopted and effective to bind the Agency for the upcoming fiscal year as long as the Agency Board and the governing body of each Member with new financial obligations included within the revised annual budget and the governing body of each Member with Agency projects located within such Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area, has approved the annual revised budget.
- D. Over the course of a fiscal year, the corresponding annual Agency budget may be amended from time to time as deemed necessary or appropriate by the Agency Board. An annual Agency budget amendment shall be considered sufficiently adopted and effective to bind the Agency for the remainder of the applicable fiscal year so long as the Agency Board, the governing body of each Member with new financial obligations included within the annual Agency budget, and the governing body of each Member with Agency projects located within such Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area have approved such amendment to the annual Agency budget.
- E. The budget shall be prepared and filed as provided in the Nebraska Budget Act, Neb. Rev. Stat. § 13-501 et seq. as may be amended from time to time.
- F. Member contributions, if needed, will be determined and agreed upon between the Agency and each Member's governing body as part of the annual budget.

IN WITNESS WHEREOF, the Members have caused this Amendment to the Interlocal Act Agreement to be executed by the duly authorized officers.

Signed by Sarpy County this _____ day of _____, 2018.

SARPY COUNTY, NEBRASKA,
A Political Subdivision

By _____
Chairperson, Board of Commissioners

Attest:

Sarpy County Clerk

Approved as to form:

Sarpy County Attorney

IN WITNESS WHEREOF, the Members have caused this Amendment to the Interlocal Act Agreement to be executed by the duly authorized officers.

Signed by the City of Bellevue this _____ day of _____, 2018.

ATTEST:

CITY OF BELLEVUE, a Nebraska
Municipal Corporation

Sabrina Ohnmacht, City Clerk

Rita Sanders, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members have caused this Amendment to the Interlocal Act Agreement to be executed by the duly authorized officers.

Signed by the City of Papillion this _____ day of _____, 2018.

ATTEST:

CITY OF PAPILLION, a Nebraska
Municipal Corporation

Nicole Brown, City Clerk

David P. Black, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members have caused this Amendment to the Interlocal Act Agreement to be executed by the duly authorized officers.

Signed by the City of La Vista this _____ day of _____, 2018.

ATTEST:

CITY OF LA VISTA, a Nebraska
Municipal Corporation

Pamela A. Buethe, City Clerk

Douglas Kindig, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members have caused this Amendment to the Interlocal Act Agreement to be executed by the duly authorized officers.

Signed by the City of Gretna this _____ day of _____, 2018.

ATTEST:

CITY OF GRETNA, a Nebraska
Municipal Corporation

Tammy L. Tisdall, City Clerk

James W. Timmerman, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members have caused this Amendment to the Interlocal Act Agreement to be executed by the duly authorized officers.

Signed by the City of Springfield this _____ day of _____, 2018.

ATTEST:

CITY OF SPRINGFIELD, a Nebraska
Municipal Corporation

Kathleen Gottsch,
City Administrator/City Clerk

Robert Roseland, Mayor

CITY SEAL

Exhibit B

Amendment Redline Comparison

SECTION IX. ANNUAL BUDGET

- A. ~~By April 30th of each year, the~~The Agency Board shall prepare an itemized annual budget for the upcoming fiscal year which, upon approval of the Agency Board, shall be presented to and subject to approval of the individual governing body of each Member. Such annual budget for the upcoming fiscal year shall be considered by the governing body of each Member ~~by May 31st of each year~~within thirty (30) days of the Agency Board's approval of the annual budget. The exercise of any Agency powers involving financial commitments of any Member(s) must be included in the annual budget, unless otherwise approved by the governing bodies of all such Member(s) pursuant to an applicable Service Agreement. Upon the approval of the annual budget by the governing bodies of all Members, such budget shall immediately be considered adopted and effective to bind the Agency for the upcoming fiscal year.
- B. In the event the governing body of any individual Member does not approve the annual budget for an upcoming fiscal year ~~by May 31st within thirty (30) days of the Agency Board's approval~~, the annual budget shall be revised by the Agency Board so that no new financial obligations for such non-approving Member shall be included within the revised annual Agency budget and no new Agency projects located within such non-approving Member's corporate limits, ETJ, or Designated Wastewater Service Area, shall be included within the revised annual Agency budget. Additionally, the annual budget shall be revised by the Agency Board so that no new Agency projects shall be located within such non-approving Member's "area of future growth and development" under the maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., but only in those instances where more than fifty percent of any such new Agency project is proposed to be located within such non-approving Member's "area of future growth and development" as determined by linear measure. In the event fifty percent or less of any new Agency project is proposed to be located within such non-approving Member's "area of future growth and development," the foregoing prohibition shall not apply and such new Agency project may be located within such non-approving Member's "area of future growth and development" without the need to obtain such non-approving Member's authorization.
- C. Any revisions that are made to an annual budget for an fiscal year pursuant to Section IX(B) shall not relieve the non-approving Member from any existing financial obligations approved as part of a previous fiscal year's budget or as part of a previous agreement to which the non-approving Member was a party, nor shall it relieve the Agency from any existing project obligations located within the non- approving Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area that were approved as payment of a previous annual budget or by a previous agreement to which the Agency was a party. After such revisions have been prepared and approved by the Agency Board, the revised annual Agency budget shall be presented to the governing body of each Member ~~by June 30th of that same year~~. A revised annual Agency budget shall be considered sufficiently adopted and effective to bind the Agency for the upcoming fiscal year as long as the Agency Board and the governing body of each Member with new financial obligations included within the revised annual budget and the governing body of each Member with Agency projects located within such Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area, has approved the annual revised budget.
- D. Over the course of a fiscal year, the corresponding annual Agency budget may be amended

from time to time as deemed necessary or appropriate by the Agency Board. An annual Agency budget amendment shall be considered sufficiently adopted and effective to bind the Agency for the remainder of the applicable fiscal year so long as the Agency Board, the governing body of each Member with new financial obligations included within the annual Agency budget, and the governing body of each Member with Agency projects located within such Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area have approved such amendment to the annual Agency budget.

- E. The budget shall be prepared and filed as provided in the Nebraska Budget Act, Neb. Rev. Stat. § 13-501 et seq. as may be amended from time to time.
- F. Member contributions, if needed, will be determined and agreed upon between the Agency and each Member's governing body as part of the annual budget.

BOARD OF SARPY COUNTY AND CITIES WASTEWATER AGENCY

RESOLUTION APPROVING AN AMENDMENT TO THE INTERLOCAL AGREEMENT
CREATING THE SARPY COUNTY AND CITIES WASTEWATER AGENCY

WHEREAS, pursuant to the Interlocal Cooperation Act, set out at Neb. Rev. Stat. § 13-801 et seq., (hereinafter the “Act”), Sarpy County and the Cities of Papillion, Bellevue, Springfield, La Vista and Gretna entered into an agreement, (hereinafter the “Agency Formation Agreement”) and formed the interlocal agency called the Sarpy County and Cities Wastewater Agency (hereinafter the “Agency”); and,

WHEREAS, the Agency is a separate body corporate and politic under the Act; and,

WHEREAS, pursuant to Agency Formation Agreement, the powers of the Agency as a body are exercised by the Agency Board; and,

WHEREAS, pursuant to Section XVII of the Agency Formation Agreement, the Agency Board may amend the Agency Formation Agreement upon the execution of a written amendment by the governing bodies of all Agency Members, and the approval of resolutions adopting the terms of the written amendment by the governing body of each Agency Member; and,

WHEREAS, the Agency Board has discussed the proposed amendment to Section IX of the Agency Formation Agreement, as attached hereto as Exhibit A (hereinafter the “Amendment”) and after discussion the Agency Board deemed it appropriate and advisable to approve the Amendment for submission to the governing body of each Agency Member for execution.

NOW, THEREFORE, BE IT RESOLVED BY THE AGENCY BOARD that the Agency Board has approved the Amendment for submission to the governing body of each Agency Member for execution; and,

NOW, THEREFORE, IT FURTHER BE RESOLVED BY THE AGENCY BOARD that the Agency Board Chairman is hereby authorized to execute, on behalf of the Agency Board, any and all documents associated with or in furtherance of the Amendment.

The above Resolution was approved by a vote of the Sarpy County and Cities Wastewater Agency Board at a public meeting duly held in accordance with applicable law on the 22nd day of May 2018.



Sarpy County and Cities Wastewater
Agency Board Chairman

Exhibit A

Amendment to the Agency Formation Agreement

AMENDMENT

THIS AMENDMENT is entered into by and between the County of Sarpy, Nebraska, the City of Papillion, Nebraska, the City of Bellevue, Nebraska, the City of Springfield, Nebraska, the City of LaVista, Nebraska, and the City of Gretna, Nebraska (collectively, the “Members”).

WHEREAS, the Members entered into an Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency in September 2017 (the “Interlocal Agreement”);

WHEREAS, the Interlocal Agreement sets forth procedures for the preparation, approval and amendment of the Sarpy County and Cities Wastewater Agency’s (“Agency’s”) Annual Budget in Section IX of the Interlocal Agreement;

WHEREAS, Section IX of the Interlocal Agreement identifies certain calendar deadlines for the consideration and approval of the Annual Budget by the Agency and its Members;

WHEREAS, the calendar deadlines are not feasible for the initial developmental period of the Agency;

WHEREAS, Section XVII of the Interlocal Agreement allows for amendment of the Interlocal Agreement through approval by the governing bodies of the Members; and

WHEREAS, the Members have determined that the time deadlines under Section IX of the Interlocal Agreement should be amended to provide more time and flexibility to the Agency and its Members to consider, discuss and approve the Agency’s Annual Budget.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Interlocal Agreement and stated herein, the parties agree as follows:

- A) Section IX of the Interlocal Agreement is hereby deleted in its entirety and replaced with the following:

SECTION IX. ANNUAL BUDGET

- A. The Agency Board shall prepare an itemized annual budget for the upcoming fiscal year which, upon approval of the Agency Board, shall be presented to and subject to approval of the individual governing body of each Member. Such annual budget for the upcoming fiscal year shall be considered by the governing body of each Member within thirty (30) days of the Agency Board’s approval of the annual budget. The exercise of any Agency powers involving financial commitments of any Member(s) must be included in the annual budget, unless otherwise approved by the governing bodies of all such Member(s) pursuant to an applicable Service Agreement. Upon the approval of the annual budget by the governing bodies of all Members, such budget shall immediately be considered adopted and effective to bind the Agency for the upcoming fiscal year.
- B. In the event the governing body of any individual Member does not approve the annual budget for an upcoming fiscal year within thirty (30) days of the Agency Board’s approval, the annual budget shall be revised by the Agency Board so that no new financial obligations for such non-

approving Member shall be included within the revised annual Agency budget and no new Agency projects located within such non-approving Member's corporate limits, ETJ, or Designated Wastewater Service Area, shall be included within the revised annual Agency budget. Additionally, the annual budget shall be revised by the Agency Board so that no new Agency projects shall be located within such non-approving Member's "area of future growth and development" under the maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., but only in those instances where more than fifty percent of any such new Agency project is proposed to be located within such non-approving Member's "area of future growth and development" as determined by linear measure. In the event fifty percent or less of any new Agency project is proposed to be located within such non-approving Member's "area of future growth and development," the foregoing prohibition shall not apply and such new Agency project may be located within such non-approving Member's "area of future growth and development" without the need to obtain such non-approving Member's authorization.

- C. Any revisions that are made to an annual budget for an fiscal year pursuant to Section IX(B) shall not relieve the non-approving Member from any existing financial obligations approved as part of a previous fiscal year's budget or as part of a previous agreement to which the non-approving Member was a party, nor shall it relieve the Agency from any existing project obligations located within the non-approving Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area that were approved as payment of a previous annual budget or by a previous agreement to which the Agency was a party. After such revisions have been prepared and approved by the Agency Board, the revised annual Agency budget shall be presented to the governing body of each Member. A revised annual Agency budget shall be considered sufficiently adopted and effective to bind the Agency for the upcoming fiscal year as long as the Agency Board and the governing body of each Member with new financial obligations included within the revised annual budget and the governing body of each Member with Agency projects located within such Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area, has approved the annual revised budget.
- D. Over the course of a fiscal year, the corresponding annual Agency budget may be amended from time to time as deemed necessary or appropriate by the Agency Board. An annual Agency budget amendment shall be considered sufficiently adopted and effective to bind the Agency for the remainder of the applicable fiscal year so long as the Agency Board, the governing body of each Member with new financial obligations included within the annual Agency budget, and the governing body of each Member with Agency projects located within such Member's corporate limits, ETJ, areas that lie within a Member's "area of future growth and development" under maps adopted under the County Industrial Sewer Construction Act, Neb. Rev. Stat. § 23-3601, et seq., or Designated Wastewater Service Area have approved such amendment to the annual Agency budget.
- E. The budget shall be prepared and filed as provided in the Nebraska Budget Act, Neb. Rev. Stat. § 13-501 et seq. as may be amended from time to time.
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