

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
FEBRUARY 16, 2021 AGENDA**

Subject:	Type:	Submitted By:
SECOND 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 the second 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. On June 5, 2018 City Council approved Resolution 18-080 approving an amendment to the calendar deadlines for more flexibility to discuss and approve the Agency's Annual Budget.

Certain portions of the force main, interceptor sewer, lift stations, connection points, and related sewer infrastructure as shown on the Agency's current preliminary design for Phase 1A of the Unified SSWS are located outside of the Agency's Jurisdiction, but within portions of Sarpy County's and the City of Bellevue's extraterritorial zoning jurisdictions. The approximate location of the additional sewer infrastructure is anticipated to be located within the corridor shown on the preliminary alignment schematic attached as Exhibit B. In order for the Agency to acquire land rights for, finance, construct, equip, operate and maintain, Phase 1A of the Unified SSWS in accordance with the formation interlocal, an amendment to the formation interlocal is necessary to clarify that certain Agency powers, privileges and authority may be exercised jointly by the Agency and applicable Members outside the boundary of the Agency's jurisdiction.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE SECOND 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 current preliminary design for Phase 1A of the Unified SSWS are located outside of the Agency's jurisdiction but within portions of Sarpy County's and the City of Bellevue's extraterritorial zoning and planning jurisdictions; and

WHEREAS, the Agency Board has determined that the Interlocal Agreement should be amended to clarify that certain Agency powers, privileges, and authority may be exercised jointly by the Agency and applicable members outside the boundary of the Agency's jurisdiction; and

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

WHEREAS, the Additional Sewer Infrastructure Map of the proposed amendment to the Agency Formation Agreement 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

BE IT 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 16TH DAY OF FEBRUARY 2021.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

BOARD OF SARPY COUNTY AND CITIES WASTEWATER AGENCY

**AMENDED RESOLUTION APPROVING THE SECOND AMENDMENT TO THE
INTERLOCAL AGREEMENT CREATING THE SARPY COUNTY AND CITIES
WASTEWATER AGENCY**

WHEREAS, pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, et seq. (the “Act”), Sarpy County and the Cities of Papillion, Bellevue, Springfield, La Vista and Gretna entered into an agreement (as amended, the “Formation Interlocal”), and formed the interlocal agency called the Sarpy County and Cities Wastewater Agency (the “Agency”) (all capitalized terms not otherwise expressly defined herein shall have the same meanings as provided in the Formation Interlocal);

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

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

WHEREAS, pursuant to Sections XVII and XVIII(D) of the Formation Interlocal, the Formation Interlocal may be amended by a written amendment by the governing bodies of all the Members of the Agency, and the approval of resolutions adopting the terms of such amendment by the governing body of each Member,

WHEREAS, the Agency Board has discussed the proposed Second Amendment to Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency attached hereto as **Exhibit A** (the “Second Amendment”), and after discussion the Agency Board deemed it appropriate and advisable to approve the Second Amendment and to submit the same to the governing body of each Agency Member for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE AGENCY BOARD that the Second Amendment is approved 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, the Second Amendment and any and all documents associated with or in furtherance of the Second Amendment.

The above Amended Resolutions were 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 9th day of December, 2020.

Attest:

Lisa A. Haine
Sarpy County and Cities Wastewater
Agency Secretary



David R. Kelly
Sarpy County and Cities Wastewater
Agency Board Chairman

Exhibit A

Second Amendment

[Attached]

SECOND AMENDMENT TO INTERLOCAL AGREEMENT CREATING THE SARPY COUNTY AND CITIES WASTEWATER AGENCY

THIS SECOND AMENDMENT TO INTERLOCAL AGREEMENT CREATING THE SARPY COUNTY AND CITIES WASTEWATER AGENCY is made 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 (individually, a “Member”; collectively, the “Members”), and approved and ratified by the Sarpy County and Cities Wastewater Agency (the “Agency”) in accordance with Sections XVII and XVIII(D) of the Formation Interlocal (defined below). Capitalized terms used herein shall have the same meaning as defined in the Formation Interlocal, unless otherwise specified herein.

WHEREAS, pursuant to the authority granted under the Nebraska Interlocal Cooperation Act, Neb. Rev. Stat. 13-801, et seq. (the “Act”), the Members formed and created the Agency pursuant to that certain Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency dated September 19, 2017 (as amended, the “Formation Interlocal”);

WHEREAS, pursuant to Section VII of the Formation Interlocal and Agency Resolution 2019-004, the Agency approved and established the Agency’s Jurisdiction over the “Service Area” depicted on the map attached hereto as **Exhibit A**, and, pursuant to separate government action, all the Members’ respective governing bodies subsequently approved and adopted the Agency’s Jurisdiction;

WHEREAS, pursuant to Section V(A) of the Formation Interlocal, the Agency has the power and authority to “acquire real property, or such other property rights as may be necessary, by gift, grant, purchase, or condemnation, as necessary for the construction and operation of the Unified SSWS...”;

WHEREAS, pursuant to Section VII(B) of the Formation Interlocal, the “Agency is not limited to financing, constructing, equipping, operating, and maintaining a sewer system exclusively within the Agency’s Jurisdiction”;

WHEREAS, the Act provides that “[a]ny power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency”;

WHEREAS, certain portions of the force main, interceptor sewer, lift stations, connection points, and related sewer infrastructure (“Additional Sewer Infrastructure”) as shown on the Agency’s current preliminary design for Phase 1A of the Unified SSWS are located outside of the Agency’s Jurisdiction, but within portions of Sarpy County’s and the City of Bellevue’s extraterritorial zoning and planning jurisdictions. The approximate location of the Additional Sewer Infrastructure is anticipated to be located within the corridor shown on the preliminary alignment schematic attached hereto as **Exhibit B**;

WHEREAS, in order for the Agency to acquire land rights for, and to finance, construct, equip, operate and maintain, Phase 1A of the Unified SSWS in accordance with the Formation

Interlocal and applicable Agency resolutions, policies and procedures, the Agency and the Members desire to amend the Formation Interlocal to clarify that certain Agency powers, privileges and authority may be exercised jointly by the Agency and applicable Members outside the boundary of the Agency's Jurisdiction;

WHEREAS, pursuant to Sections XVII and XVIII(D) thereof, the Formation Interlocal may be amended by a written amendment by the governing bodies of all the Members of the Agency, and the approval of resolutions adopting the terms of such amendment by the governing body of each Member;

WHEREAS, the Agency Board and the Members have determined that an amendment to the Formation Interlocal is necessary for the Agency to carry out its purposes; and

WHEREAS, on the terms set forth herein, the Members agree to amend the Formation Interlocal on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the Members agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are incorporated herein by this reference.

2. **Land Rights Acquisitions for Additional Sewer Infrastructure.** Section XIII of the Formation Interlocal is hereby amended by adding the following new subsection (D) to the end of said Section XIII:

“D. Pursuant to Sections V, VII and XIII of this Agreement, the Agency is authorized and empowered to, among other things, acquire real property, or such other property rights as may be necessary, by gift, grant, purchase, or condemnation, as necessary for the financing, construction, equipping, operation, and maintenance of the Unified SSWS located within and outside the Agency's Jurisdiction; provided, however, that the acquisition of real property, or such other property rights, for portions of the Unified SSWS (including, but not limited to, the Additional Sewer Infrastructure) located outside of the Agency's Jurisdiction and within a Member's corporate limits, declared extraterritorial zoning jurisdiction, wastewater service area designated per interlocal agreement, or 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., shall require approval by the Agency and the governing body of each Member where the land upon which such portions of the Unified SSWS (including, but not limited to, the Additional Sewer Infrastructure) are located. The powers, privileges and authorities granted pursuant to this section and elsewhere in this Agreement may be exercised and enjoyed jointly by the Members with the Agency. Such real and other property rights acquired pursuant to this section shall be held in the name of the Agency.”

3. **Cooperation.** The Agency and Members 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 Second Amendment, and they shall further perform the applicable provisions of this Second Amendment in good faith and with due diligence and in cooperation with the other party. The Members shall refrain from taking any action that is inconsistent with the terms hereof.

4. **Effective Date.** This Second Amendment shall be not be effective before the occurrence of the latter of the separate approving actions by each Member's governing body are taken, which approvals shall include all actions of each Member prior to such date taken in reliance upon and in accordance with the terms of this Second Amendment, and each Member shall furnish to the Agency a certified copy of the resolution of its governing body. This Second Amendment shall be in full force and effect as of the date of execution hereof by the last of the parties hereto and shall continue until terminated by mutual agreement of the parties hereto.

This Second Amendment to the Formation Interlocal is authorized by the vote and approval of the Agency and each Member at public meetings duly held in accordance with applicable law, and the following execution by their respective authorized representatives.

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IN WITNESS WHEREOF, in accordance with Sections XVII and XVIII(D) of the Formation Interlocal, the Agency Board and the Members approve this Second Amendment and hereunto sets their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by the Sarpy County and Cities Wastewater Agency this 9th day of December, 2020.



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 Members hereunto set their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by Sarpy County this _____ day of _____, 2020.

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 Members hereunto set their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by the City of Bellevue this _____ day of _____, 2020.

ATTEST:

CITY OF BELLEVUE, a Nebraska
Municipal Corporation

Susan Kluthe, City Clerk

Rusty Hike, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members hereunto set their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by the City of Papillion this _____ day of _____, 2020.

ATTEST:

CITY OF PAPILLION, a Nebraska
Municipal Corporation

Nicole Brown, City Clerk

David P. Black, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members hereunto set their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by the City of La Vista this _____ day of _____, 2020.

ATTEST:

CITY OF LA VISTA, a Nebraska
Municipal Corporation

Pamela A. Buethe, City Clerk

Douglas Kindig, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members hereunto set their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by the City of Gretna this ____ day of _____, 2020.

ATTEST:

CITY OF GRETNA, a Nebraska
Municipal Corporation

Tammy L. Tisdall, City Clerk

James W. Timmerman, Mayor

CITY SEAL

IN WITNESS WHEREOF, the Members hereunto set their hands to this Second Amendment upon the day and year hereinafter indicated.

Executed by the City of Springfield this ____ day of _____, 2020.

ATTEST:

CITY OF SPRINGFIELD, a Nebraska
Municipal Corporation

Kathleen Gottsch,
City Administrator/City Clerk

Robert Roseland, Mayor

CITY SEAL

EXHIBIT A

Agency's Jurisdiction

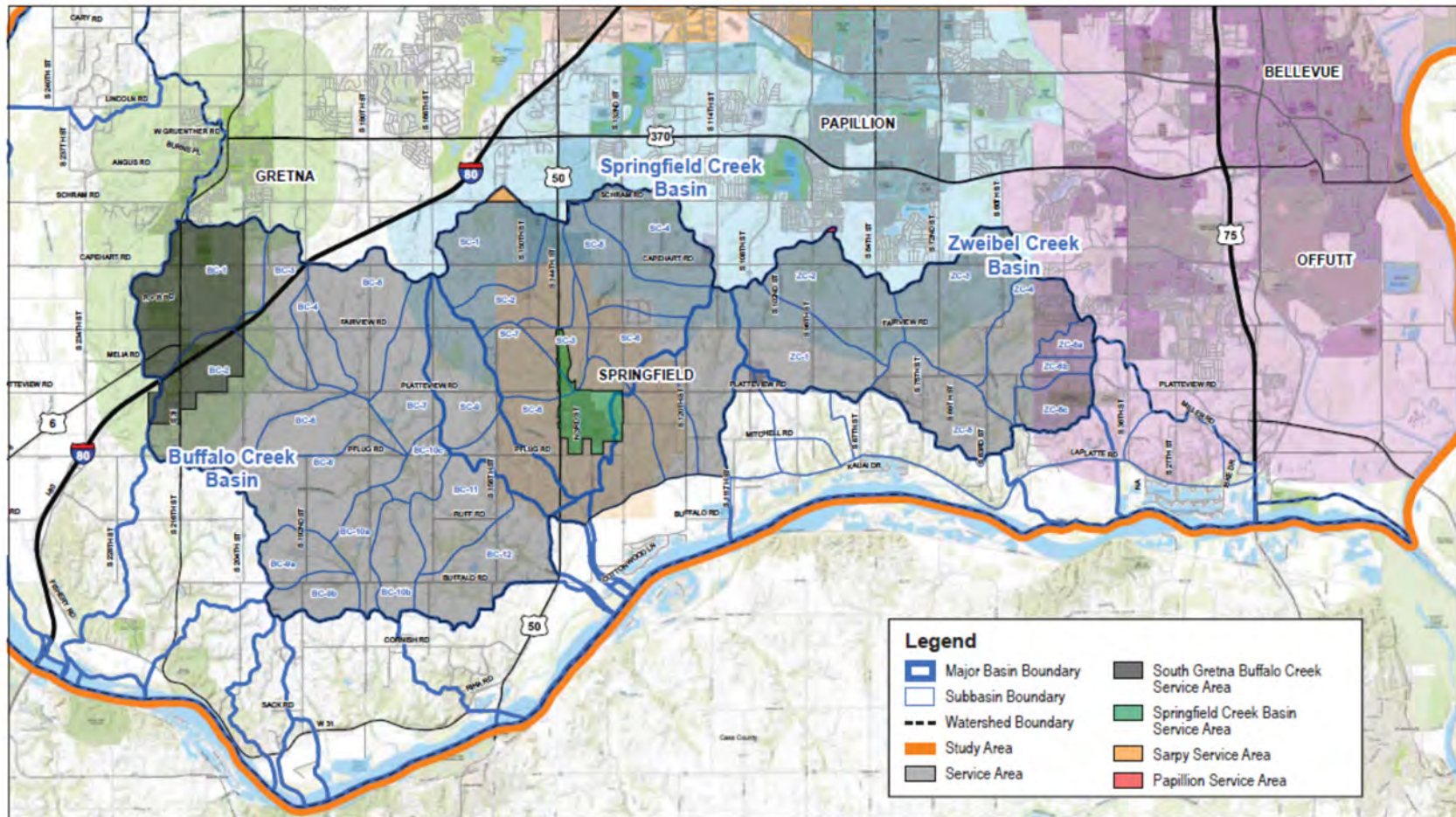


FIGURE 1
Growth Management Plan



SOUTHERN SARPY COUNTY



DATE
June 2019
FIGURE
Service Area

EXHIBIT B

Additional Sewer Infrastructure

