

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
MAY 17, 2022 AGENDA**

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

SYNOPSIS

A resolution has been prepared to approve the Sarpy County and Cities Wastewater Agency Third Amendment to the Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency.

FISCAL IMPACT

N/A

RECOMMENDATION

Approval

BACKGROUND

The City of La Vista is a party to an agreement entered into pursuant to the Interlocal Cooperation Act set out in Neb. Rev. Stat. §13-801 et. Seq. 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”).

Pursuant to Section XVII of the Formation Interlocal, 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. The Agency Board approved the Third Amendment to the Interlocal Agreement at a public meeting duly held in accordance with applicable law on April 27, 2022. Resolution 2022-016.

The only change to the interlocal agreement is giving authority to make administrative changes to the Agency’s Jurisdiction boundary without the prior approval of the Agency Board or the applicable governing bodies of the Members having jurisdiction over the areas affected by such administrative boundary changes.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE THIRD 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 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 Members of the Agency, and the approval of resolutions adopting the terms of such amendment by the governing body of each Member; and

WHEREAS, the Agency Board discussed the proposed Third Amendment to Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency attached hereto as Exhibit A (the "Third Amendment"), and subsequently deemed it appropriate and advisable to approve the Third Amendment and to submit the same to the governing body of each Agency Member for approval and execution

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska do hereby approve the Third Amendment to the Interlocal Agreement creating the Sarpy County and Cities Wastewater Agency.

PASSED AND APPROVED THIS 17TH DAY OF MAY 2022.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Patricia Anderson
Deputy City Clerk

BOARD OF SARPY COUNTY AND CITIES WASTEWATER AGENCY

**RESOLUTION APPROVING THE THIRD 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 Third Amendment to Interlocal Agreement Creating the Sarpy County and Cities Wastewater Agency attached hereto as **Exhibit A** (the “Third Amendment”), and after discussion the Agency Board deemed it appropriate and advisable to approve the Third 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 Third 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 Third Amendment and any and all documents associated with or in furtherance of the Third 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 27th day of April, 2022.

ATTEST:

Lisa A. Haine
Sarpy County and Cities Wastewater
Agency Secretary



David R. K. [Signature]
Sarpy County and Cities Wastewater
Agency Board Chairman

Exhibit A

Third Amendment

[Attached]

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

THIS THIRD 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 VII(C) of the Formation Interlocal, the Agency’s Jurisdiction may be amended from time to time as necessary and upon the approval of both the Agency Board and the Members’ individual governing bodies;

WHEREAS, the Members desire to have the authority to make administrative changes to the Agency’s Jurisdiction boundary without the prior approval of the Agency Board or the applicable governing bodies of the Members having jurisdiction over the areas affected by such administrative boundary changes;

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 acknowledged, the Members agree as follows:

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

2. **Authority to Apply for and Hold Permits.** Subsection V.A. of the Formation Interlocal is hereby amended by adding the following new sub-subsection (27) to the end of said Subsection V.A:

“27. 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.”

3. **Administrative Changes to the Agency’s Jurisdiction.** Section VII of the Formation Interlocal is hereby amended by adding the following new subsection (E) to the end of said Section VII:

“E. Notwithstanding anything contained herein to the contrary, the Agency may make certain administrative changes to the boundary of the Agency’s Jurisdiction without the prior approval, authorization or resolution of the Agency Board or the Members’ individual governing bodies so long as such administrative changes are duly approved by the Member having jurisdiction over the areas affected by such administrative change and the Agency Administrator in accordance with the Agency’s Growth Management Plan adopted by the Agency Board on June 26, 2019 pursuant to Agency Resolution No. 2019-004, as amended on February 26, 2020 pursuant to Agency Resolution No. 2020-004, and further amended on April 27, 2022 pursuant to Agency Resolution No. 2022-015, and in accordance with the Growth Management Plan Implementing Policies and Procedures adopted by the Agency Board on August 26, 2020 pursuant to Agency Resolution No. 2020-013, as amended on April 27, 2022 pursuant to Agency Board Resolution No. 2022-015 (collectively, and as further amended and modified from time to time, the “Growth Management Plan”).”

4. **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 Third Amendment, and they shall further perform the applicable provisions of this Third 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.

5. **Effective Date.** This Third Amendment shall be not be effective until (a) the governing body of each Member (a) duly approves and executes this Third Amendment, and (b)

duly approves and incorporates into its comprehensive plan the amended Growth Management Plan adopted by the Agency Board on April 27, 2022 pursuant to and in accordance with Agency Board Resolution No. 2022-015. Such approvals shall include all actions of each Member prior to such date taken in reliance upon and in accordance with the terms of this Third Amendment, and each Member shall furnish to the Agency a certified copy of the resolution of its governing body. This Third Amendment shall be in full force and effect as of such effective date and shall continue until terminated by mutual agreement of all the parties hereto.

This Third 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 Third Amendment and hereunto sets their hands to this Third Amendment upon the day and year hereinafter indicated.

Executed by the Sarpy County and Cities Wastewater Agency this 27th day of April, 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 Members hereunto set their hands to this Third Amendment upon the day and year hereinafter indicated.

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

Executed by the City of Bellevue this _____ day of _____, 2022.

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 Third Amendment upon the day and year hereinafter indicated.

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

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

Executed by the City of Gretna this _____ day of _____, 2022.

ATTEST:

CITY OF GRETNA, a Nebraska
Municipal Corporation

Tammy L. Tisdall, City Clerk

Mike Evans, Mayor

CITY SEAL

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

Executed 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