

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 5, 2023 AGENDA**

Subject:	Type:	Submitted By:
INTERLOCAL COOPERATION AGREEMENT – TRANSFER OPIOID SETTLEMENT TO SARPY COUNTY	◆ RESOLUTION ORDINANCE RECEIVE/FILE	KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES

SYNOPSIS

A resolution has been prepared to approve an Interlocal Cooperation Agreement with Sarpy County to transfer the City's current and future opioid settlement proceeds to Sarpy County.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

In 2021 and 2022, a nationwide settlement was reached to resolve opioid litigation against the pharmaceutical distributors, manufacturers, and three pharmacy chains. The settlement reached included payments to local political subdivisions in various amounts over 18 years. The amounts La Vista is expected to receive range from \$4,611 to \$24,580.

The settlements include substantial restrictions on the use of the payments and the money received must be used for abatement of the opioid epidemic. The City has reviewed the restrictions and has found that Sarpy County is better equipped to provide the additional services outlined in the settlement. The county resources would also be of benefit to the citizens of La Vista.

Under this Agreement, the city is not obligated to pay any amounts other than the money received from the opioid Settlement.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT WITH SARPY COUNTY TO TRANSFER THE CITY'S CURRENT AND FUTURE OPIOID SETTLEMENT PROCEEDS.

WHEREAS, the parties are political subdivisions, duly created and validly existing under the laws of the State of Nebraska; and

WHEREAS, in order to promote the health, safety, and welfare of the residents of the parties to this Agreement and pursuant to the authority granted to the parties per the Interlocal Cooperation Act, Section 13-801, *et. seq.*, Sarpy County and the City are authorized to enter into this Agreement with each other so as to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of such political subdivisions; and

WHEREAS, the City and County each has received, and expects to continue to receive, moneys from various class action opioid lawsuit settlements; and

WHEREAS, given amounts the City and County each expects to receive every year from the Settlements, the Parties wish for the City to transfer to the County moneys received by the City under the Settlements ("City Settlement Receipts"), for the County to combine with moneys received by the County under the Settlements ("City Settlement Receipts"), and more efficiently pool such resources to serve the goals of the Settlements within the City and County.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the interlocal cooperation agreement with Sarpy County and the City of La Vista to transfer future opioid settlement proceeds is hereby approved in form and content submitted with this resolution, subject to any additions, subtractions, or changes as the City Administrator or any designee of the City Administrator determines necessary or appropriate in consultation with the City Attorney, and that the Mayor is hereby authorized to execute said agreement on behalf of the City of La Vista.

PASSED AND APPROVED THIS 5TH DAY OF SEPTEMBER 2023.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, MMC
City Clerk

INTERLOCAL COOPERATION AGREEMENT

This Agreement is made as of the dates indicated at the signatures below by and between City of La Vista, Nebraska (hereinafter “City”), and Sarpy County, Nebraska (hereinafter “County”). Collectively, City and County are hereinafter sometimes referred to as the “Parties”.

PRELIMINARY STATEMENT

WHEREAS, the Parties are political subdivisions, duly created and validly existing under the laws of the State of Nebraska; and,

WHEREAS, in order to promote the health, safety, and welfare of the residents of the parties to this Agreement and pursuant to the authority granted to the parties per the Interlocal Cooperation Act, Section 13-801, *et. seq.*, Sarpy County and City are authorized to enter into this Agreement with each other so as to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of such political subdivisions; and,

WHEREAS, the City and County each has received, and expects to continue to receive, moneys from various class action opioid lawsuit settlements, including but not limited to those settlements involving Johnson & Johnson, Janssen Pharmaceuticals, Inc., McKesson Corporation, Cardinal Health, Inc., Amerisource Bergan Corporation, Allergan, CVS, Teva, Walgreens, and Walmart (collectively referred to as “the Settlements”); and,

WHEREAS, given amounts the City and County each expects to receive every year from the Settlements, the Parties wish for the City to transfer to the County moneys received by the City under the Settlements (“City Settlement Receipts”), for the County to combine with moneys received by the County under the Settlements (“County Settlement Receipts”) and more efficiently pool such resources to serve the goals of the Settlements within the City and County.

NOW, THEREFORE, in consideration of the covenants herein set forth, the County and City do hereby agree and contract with each other as follows:

1. **Transfer of funds.** Within a reasonable time after receiving any City Settlement Receipts, the City shall transfer the said money to the County, and the County shall combine such money with any County Settlement Receipts to serve the goals of the Settlements within the City and County as provided in this Agreement. The County shall not provide any consideration to the City for such City Settlement Receipts, other than to use such money to carry out the duties set forth in this Agreement. Such money from the City pursuant to this Agreement shall be addressed and sent to the County through the following representative:

Sarpy County, Nebraska
Attention: _____
1210 Golden Gate Drive
Room # _____
La Vista, NE 68046

2. Variability of funds. The Parties acknowledge that there are no expectations nor promises regarding the amount of any money that the City or County may receive under the Settlements and be transferred and combined for joint use under this Agreement, as such amounts received by the City or County may vary.
3. Use of funds. The County shall combine with County funds and use the money transferred to it by the City under this Agreement only for the uses authorized for such money pursuant to the terms of the Settlements under which the money was made available. Specifically, City Settlement Receipts shall be combined and used with County Settlement Receipts to pay salary and benefits of a new Mental Health Co-Responder Clinician, who the County will hire and employ, and who will respond with fire, rescue or law enforcement personnel to calls for service within the City or County. County shall pay any costs connected with the Mental Health Co-Responder Clinician in excess of City Settlement Receipts and County Settlement Receipts. If County proposes to use City Settlement Receipts for any other purpose, County must give the City at least 30 days advance notice of the change pursuant to Section 16 below.
4. Records. The City shall maintain records of all City Settlement Receipts received and transferred to the County under this Agreement, including the date, amount, and specific source of the money received. The County shall maintain records of all City Settlement Receipts received from the City under this Agreement, including the date received, amount, and specific use made of the money so received. Each Party shall produce to the other Party any such records upon written request. Each Party shall have the right to audit and review such records at any time to assure that such records are accurate.
5. Term. This Agreement shall commence upon each Party's signature below, and continue until terminated by either Party. Either Party may terminate this Agreement by providing written notice to the other Party at least one (1) month prior to the proposed termination date. The Agreement may also be terminated at any time by the written consent of both Parties.
6. Nondiscrimination Clause. In accordance with the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. 48-1122, each party agrees that it and any of its subcontractors or agents shall not discriminate against any employee, or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of the race, color, religion, sex, disability, or national origin of the employee or applicant.
7. Drug Free Policy. Each Party hereto represents and warrants to the other that it has established and maintains a drug free workplace policy.

8. Choice of Law. This Agreement shall be governed in all respects by the laws of the State of Nebraska and the jurisdiction and venue for any litigation with respect hereto shall be in the courts of Sarpy County, Nebraska.
9. Entire Agreement. This instrument contains the entire agreement of the Parties and shall be binding upon the successors and assigns of the respective Parties. No amendments, deletions or additions shall be made to this Agreement except in a written amendment signed by all parties. Nebraska law shall govern the terms and performances under this Agreement.
10. Severability. In the event any portion of this Agreement may be held invalid or unenforceable for any reason, it is agreed that any invalidity or unenforceability shall not affect the remainder of this Agreement and the remaining provisions shall remain in full force and effect, and any court of competent jurisdiction may so modify any objectionable provision of this Agreement so as to render it valid and enforceable.
11. New Employee Work Eligibility Status. The Parties agree to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The parties are required and hereby agree to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
12. Conflict of Interest. The Parties warrant to each other that they have not employed nor retained any company or person, other than a bona fide employee working solely for the Parties to this Agreement to solicit or secure this contract, and that they have not paid or agreed to pay any company or person other than a bona fide employee working solely for the parties, any fee, commissions, percentage, brokerage fees, gifts or other consideration, contingent upon or resulting from the award or making of this contract.
13. Representations. Each Party hereto represents and warrants to the other that (i) it has all necessary right, power and authority to enter into this Agreement, and (ii) the execution and delivery of this Agreement and the performance and observance of all obligations and conditions to be performed or observed by such party have been duly authorized by all necessary action on behalf of such Party.
14. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one Agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.
15. Indemnification Each Party ("Indemnifying Party") agrees to release, defend, indemnify

and hold harmless each other Party “(Indemnified Party”) and said Indemnified Party’s officers, officials, employees and agents, and each of them, from and against all liabilities, claims, costs and expenses whatsoever arising out of or resulting from the negligent acts or omissions of the Indemnifying Party or of the officers, officials, employees, agents or contractors of the Indemnifying Party, related to or arising out of the terms and requirements of this Agreement.

16. Notice. Notice to a Party under this Agreement shall be deemed sufficient if in writing and if mailed or delivered to:

To the City:

City of La Vista
City Administrator
8116 Parkview Blvd.
La Vista, NE 68046

To the County:

Sarpy County, Nebraska
Attention: _____
1210 Golden Gate Drive
Room # _____
Papillion, NE 68046

17. Interlocal Cooperation Act Provisions. There shall be no separate legal or administrative entity created to administer this Agreement and, therefore, no separate budget established for such an entity. To the extent this Agreement requires administration other than as set forth herein, it shall be administered by the undersigned representatives of the Parties, or any designee of any such undersigned representative, acting as a joint board. This Agreement does not authorize the levying or collecting of any tax. Each Party shall be responsible for establishing and maintaining its own budget, for financing its own duties, and for acquiring, holding and disposing of its own property, except as specifically provided by this Agreement. No real or personal property shall be acquired jointly by the Parties to perform the conditions of this Agreement unless such acquisition is specifically agreed to in writing by all Parties, which writing shall specify the method for disposing of such joint property upon partial or complete termination. To the extent that a Party acquires, holds, or disposes of any real or personal property for use in the joint or cooperative undertaking contemplated by this Agreement, it shall do so in the same manner that it deals with other property of such Party.
18. Recitals Incorporated. Recitals set forth in the PRELIMINARY STATEMENT above are incorporated into this Agreement by reference.

IN WITNESS WHEREOF, we, the contracting Parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year the last party signs below. Executed on the dates indicated with the signatures below.

[Signatures on Following Pages]

Executed by the County of Sarpy, Nebraska, this ____ day of _____, 2023.

COUNTY OF SARPY, NEBRASKA,

By: _____
Chairman, Sarpy County Board of Commissioners

ATTEST:

County Clerk

Executed by City of La Vista, Nebraska, this ____ day of _____, 2023.

CITY OF LA VISTA, NEBRASKA,

By: _____
Mayor of La Vista

ATTEST:

City Clerk