

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JANUARY 7, 2025 AGENDA**

Subject:	Type:	Submitted By:
INTERLOCAL COOPERATION AGREEMENT – SANITARY IMPROVEMENT DISTRICT #104	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAT DOWSE CITY ENGINEER

SYNOPSIS

A resolution has been prepared to approve an interlocal cooperation agreement with Sanitary Improvement District #104 (Millard Highlands South/Millard Highlands South II) to authorize the City to perform the permitting and regulation of communications facilities and construction activity in rights of way within SID #104, within the City of La Vista's extraterritorial zoning jurisdiction.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval.

BACKGROUND

The City has received requests from utility providers to install communications facilities within the right of way in SID #104 which is located within the City's ETJ and is planned to be annexed into the City in the future. Staff recommends the permitting arrangement and execution of the interlocal agreement to ensure that the construction activity adheres to the right of way requirements, construction standards, and procedures of the City. The interlocal agreement also authorizes the City to receive revenues in connection with the private uses of street right of way or public property of the SID to offset the expenses related to the permitting and oversight.

A copy of the proposed interlocal agreement signed by SID #104 is attached.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF LA VISTA AND SANITARY IMPROVEMENT DISTRICT #104 FOR PERMITTING OF UTILITY INSTALLATION PERMITS FOR COMMUNICATION FACILITIES IN THE RIGHT OF WAY.

WHEREAS, the City controls access, obstruction, use and occupation of street right-of-way or public property of the City by private parties in connection with communications lines, equipment and improvements; and

WHEREAS, SID #104 and City determine that it is necessary, desirable and appropriate to also control private uses in connection with communications facilities of the SID in a uniform, consistent, and orderly manner and for the purpose of reducing potential adverse impacts of private uses onto the public's interest in such right-of-way or public property; and

WHEREAS, the City and SID #104 determine that the City is better positioned to provide such control of private uses with respect to street right-of-way or public property of the SID; and

WHEREAS, the City and SID #104 are authorized by the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801, et. Seq., to enter into this agreement with each other;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the interlocal agreement between the City of La Vista and Sanitary Improvement District #104 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 or any designee of the Mayor is hereby authorized to execute said agreement on behalf of the City of La Vista.

PASSED AND APPROVED THIS 7TH DAY OF JANUARY 2025.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
City Clerk

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INTERLOCAL COOPERATION AGREEMENT

This Interlocal Cooperation Agreement (this "Agreement") is made and entered into on the last date below written, by and between SANITARY AND IMPROVEMENT DISTRICT NO. 104 OF SARPY COUNTY, NEBRASKA (hereinafter referred to as "SID") and the CITY OF LA VISTA, NEBRASKA, a municipal corporation in the State of Nebraska (hereinafter referred to as the "City").

1. The parties make and agree to the following findings and determinations.

a. City is a city of the first class duly formed and organized in the State of Nebraska, pursuant to, and having such powers and purposes as specified by applicable Nebraska law, including without limitation chapters 16, 18 and 19 of the Nebraska Revised Statutes.

b. SID is a sanitary and improvement district within the City's extraterritorial zoning jurisdiction duly formed and organized in the State of Nebraska, pursuant to, and having such powers and purposes as specified by applicable Nebraska law, including without limitation chapter 31 of the Nebraska Revised Statutes, and included within its boundaries, as set forth in the plat filed with the Sarpy County Register of Deeds in Book 6 Page 73 is street right-of-way and other public property for the use, enjoyment and welfare of the general public.

c. While recognizing potential use of public right-of-way for communications lines, equipment or improvements, SID and City desire and agree that street right-of-way and other public property of the City or SID must remain open and available for use, enjoyment and welfare of the general public. For purposes of this Agreement right-of-way or property "of" the SID or City means any interests in or to real property within the boundaries of the SID or City that the SID or City owns, holds or controls, or improvement thereon or thereof.

d. City controls access, obstruction, use and occupation of street right-of-way or public property of the City by private parties ("Private Uses") in connection with communications lines, equipment and improvements ("Communications Facilities"). SID and City determine that it is necessary, desirable and appropriate to also control Private Uses in connection with Communications Facilities of the SID, in a uniform, consistent and orderly manner and for the purpose of reducing potential adverse impact of Private Uses on or to the public's interests in such right-of-way or public property, including without limitation adverse impacts on use and enjoyment of street right-of-way by the general public; and

e. The parties determine that the City is better positioned to provide such control of Private Uses with respect to street right-of-way or public property of the SID, and that doing so shall provide uniformity and consistency within the City and SID with respect to such Private Uses.

f. City and SID are authorized by the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801, et seq., 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.

g. The City and SID wish to enter into an agreement for the City to control Private Uses of street right-of-way or public property of the SID in connection with Communications Facilities in such manner and in accordance with such laws, rules, regulations, policies, procedures, agreements, permits and requirements as the City adopts, approves or otherwise determines from time to time, and find that entering such an agreement is in the common interests of both parties and their residents.

2. No Administrative Entity. There will be no (a) separate legal or administrative entity created to administer this Agreement, (b) financing or separate budget, (c) property that must be disposed of upon partial or complete termination, or (d) taxes authorized pursuant this Agreement. City will budget and pay costs and expenses, and receive revenues, in connection with Private Uses of street right-of-way or public property of the SID pursuant to this Agreement.

3. Right of Way Use. The City at its cost shall control Private Uses of street right-of-way or public property of the SID in connection with Communications Facilities in such manner and accordance with such laws, rules, regulations, policies, procedures, agreements, permits and requirements as the City adopts, approves or otherwise determines from time to time, which shall among other things require contractors while working within street right-of-way to use commercially reasonable efforts to avoid unnecessary boring, excavation, debris, materials or equipment within such street right-of-way, and upon completion of such work to restore such street right-of-way to the condition that existed immediately before such work began, permitted Communications Facilities excepted. City shall have and be authorized to exercise all rights, powers and authority of City or SID under applicable laws, policies, rules, regulations or requirements, as enacted, adopted or modified from time to time, in connection with this Agreement. Without limiting the immediately preceding sentence:

a. All applicable laws, rules, regulations, policies, procedures, agreements, permits and requirements of the City from time to time with respect to Private Uses of street right-of-way or public property of the City in connection with Communications Facilities also shall apply to Private Uses of street right-of-way or public property of the SID in connection with Communications Facilities; and

b. With respect to any Private Uses of street right-of-way or public property of the SID in connection with Communications Facilities, City shall be authorized (i) to specify and require such applications, plans, specifications, maps, information, documentation, certifications, security, reviews, approvals and other requirements, (ii) to require, negotiate, approve, execute, enter, issue, deliver and enforce such agreements or permits, subject to any conditions as the City determines necessary or appropriate, (iii) to require, impose, collect and retain such fees, rents, costs, expenses or other amounts in connection with Private Uses as the City determines from time to time, which City in its discretion may elect to offset

against current or future costs and expenses connected with this Agreement, and (iv) to take any other actions as City in its discretion determines necessary or appropriate.

4. Records. The City shall maintain records with respect to Private Uses of street right-of-way or other public property of the SID in connection with Communications Facilities, and SID, at its sole cost and expense, shall have the right to audit and review such records at any reasonable time.

5. Duration. This Agreement shall begin upon execution by both parties and shall continue in effect for twenty (20) years; provided, however, this Agreement shall automatically renew thereafter for successive additional terms of one year (each a "Renewal Term") unless either party provides the other written notice of nonrenewal at least thirty days before the first day of any Renewal Term; and provided, further that this Agreement shall continue in effect for so long as any agreement or permit of the City is in effect with respect to any Private Uses of street right-of-way or public property of the SID in connection with Communications Facilities. Notwithstanding anything in this Agreement to the contrary, this Agreement automatically shall terminate without any notice or action required of any party with respect to any part of the SID annexed by the City, effective immediately before such annexation is effective.

6. Appointment of Administrators. Legal counsel of the SID, or any designee of legal counsel or the Trustees of the SID, shall administer this Agreement on behalf of the SID, and the Building Inspector or City Engineer of the City, or any designee of the Mayor or City Administrator, shall administer this Agreement on behalf of the City. Administrators each shall be authorized to take all actions on behalf of the respective parties, unless the administrator determines that approval of the governing body of the party is required.

7. Nondiscrimination Clause. In accordance with the Nebraska Fair Employment Practice Act, Neb. Rev. Stat § 48-1122, all parties to this Agreement agree that neither they nor any of their subcontractors or agents shall 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.

8. Entire Agreement. This Agreement 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 writing signed by all parties. Nebraska law shall govern the terms and performances under this Agreement. The recitals at the beginning of this Agreement are an integral and important part hereof and are incorporated herein.

[Remainder of Page Left Intentionally Blank; Execution Page Follows.]

Executed by the City of La Vista, Nebraska, this _____ day of _____, 2024.

CITY OF LA VISTA, NEBRASKA

BY: _____
Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl
City Clerk

Executed by Sanitary and Improvement District No. 104 of Sarpy County, this 1st day of May, 2024.

SANITARY AND IMPROVEMENT DISTRICT
NO. 104 OF SARPY COUNTY, NEBRASKA

BY: _____
Chairman

ATTEST:

Clerk