

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
NOVEMBER 5, 2013 AGENDA**

Subject:	Type:	Submitted By:
INTERLOCAL AGREEMENT - WEST PAPIO TRAIL-90 TH ST. TO PORTAL RD.	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOHN KOTTMANN CITY ENGINEER/ASSISTANT PUBLIC WORKS DIRECTOR

SYNOPSIS

A resolution has been prepared authorizing the execution of an Interlocal Agreement between the City of Papillion, Nebraska; Papio-Missouri River Natural Resources District, and the City of La Vista, Nebraska for the design, construction and operation of a public recreation trail to be known as the "West Papio Trail".

FISCAL IMPACT

The FY 13-14 Capital Improvement Program provides funding from the Debt Service Fund (sales tax) for this project.

RECOMMENDATION

Approval

BACKGROUND

The City of La Vista participated with the City of Omaha, City of Papillion and the Papio-Missouri River Natural Resources District in a West Papio Trail study in 2011 and 2012. The extension of the trail in the proposed interlocal agreement is a portion of the West Papio Trail from 90th Street to Portal Road that will eventually extend to Millard Avenue in the City of Omaha.

This Interlocal Agreement outlines each jurisdiction's obligation to participate in the hiring of professional engineering services for the design of the trail extension and for the hiring of a contractor for the construction of the trail. The Papio-Missouri River Natural Resources District will be the lead administrator for the project and both Cities will pay for their shares of the work at specified times as set forth in the agreement. The City of La Vista share of the project from 90th Street to Portal Road is established at 5 percent. The City of La Vista will operate, maintain and repair the portion of the trail lying within its City limits and extraterritorial jurisdiction.

The FY 13-14 budget contains funding in the amount of \$30,000 with the additional \$15,000 to be programmed in the FY 14-15 budget.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING AN INTERLOCAL COOPERATION AGREEMENT WITH THE CITY OF LA VISTA, CITY OF PAPILLION AND THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT FOR THE DESIGN, CONSTRUCTION AND OPERATION OF A PUBLIC RECREATION TRAIL TO BE KNOWN AS THE "WEST PAPIO TRAIL".

WHEREAS, the provisions of Nebraska State Statutes Sections 13-801, et. seq., provide authority for the City of La Vista to join with other governmental agencies on a basis of mutual advantage and in a manner that will accord best with geographic, economic, population and other factors by signing an Interlocal Cooperation Agreement; and,

WHEREAS, the City of La Vista participated in the West Papio Trail study in 2011 and 2012; and,

WHEREAS, the extension of the trail in this agreement is a portion of the West Papio Trail from 90th Street to Portal Road that will eventually extend to Millard Avenue in the City of Omaha; and,

WHEREAS, each governmental agency will pay for their shares of the work at specified times as set forth in the agreement; and,

WHEREAS, the participants agree that this Interlocal Cooperation Agreement in no manner expands or restricts the authority otherwise granted to them by law; and

WHEREAS, such an agreement is in the best interests of the citizens of the City of La Vista.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of La Vista, Nebraska, hereby authorize the execution of an Interlocal Cooperation Agreement with the City of Papillion and the Papio-Missouri River Natural Resources District.

PASSED AND APPROVED THIS 5TH DAY OF NOVEMBER, 2013.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Bueth, CMC
City Clerk

INTERLOCAL COOPERATION ACT AGREEMENT
WEST PAPIO TRAIL (90TH Street to Portal Road)

AMONG

THE CITY OF LA VISTA,
THE CITY OF PAPILLION,

AND

THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

This agreement is hereby made and entered into as of this _____ of _____, 2013, by and among the CITY OF LA VISTA ("LaVista"), the CITY OF PAPILLION ("Papillion"), municipal corporations organized and existing under the laws of the State of Nebraska located in Sarpy County, Nebraska, and the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT ("District"), a natural resources district organized and existing under the laws of the State of Nebraska (all collectively referred to hereinafter as "the Parties").

WHEREAS, Papillion currently owns and operates the West Papio Trail, extending from 56th Street to Walnut Creek (approximately 90th Street) in Sarpy County; and,

WHEREAS, LaVista and Papillion desire to extend the West Papio Trail to Portal Road; and,

WHEREAS, the District currently owns, operates, maintains and repairs the West Papillion Creek Flood Control Project; and,

WHEREAS, in order to serve their mutual interests and pursuant to the authority granted the Parties by the Nebraska Interlocal Cooperation Act (Neb. Rev. Stat. §§ 13-801, et.seq.), the Parties desire to enter into this agreement to delineate and provide for their specific rights and obligations with respect to the development, construction, operation, maintenance and repairs of the West Papio Trail (90th Street to Giles Road, then east to Portal Road).

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, the Parties do hereby mutually undertake, promise, agree, and contract each for itself and its successors and assigns as follows:

I. PURPOSE

The purpose of this agreement is to specify the terms and conditions upon which the Parties will design, develop, construct, operate and maintain a public recreation trail to be known as the "West Papio Trail" ("the Trail") as more fully described in Exhibit A attached hereto and incorporated herein by reference, on parcels of real property currently owned by the Parties or to be acquired by the District as hereinafter provided, generally extending from Walnut Creek (approximately 90th Street), on the east, to Giles Road on the west then east to Portal Road, to be located mainly on the Papillion Creek Flood Control Project improvements.

II. RIGHTS, DUTIES, AND OBLIGATIONS OF THE DISTRICT

The District agrees to:

1. Act as the lead administrator for development of the Trail;
2. Retain and compensate consultant(s) to provide professional engineering services in design, bidding and administration of construction of the Trail;
3. Prior to bidding and construction of the Trail, provide plans, specifications and construction documents to the Parties for review and approval;
4. Acquire any additional rights-of-way necessary for the Trail, and publicly bid and construct the Trail after selecting and agreeing to compensate one or more contractors to build the Trail in accordance with the plans, specifications, and construction documents approved by the Parties; provided, however, the District shall not be required to expend more than a total of \$675,000 of its own funds for rights-of-way, engineering and construction of the Trail without assurances of proportionate reimbursement by Papillion and LaVista, in the proportions hereinafter stated;
5. Maintain records accounting for the land acquisitions, interim financing, design, development and construction of the Trail, including receipt and application of private funds; and
6. Indemnify and hold harmless Papillion and LaVista, their officers, agents and employees, and their successors and assigns, individually and collectively, from and against any and all liability, causes of action and claims for personal injury or property damage arising from design, engineering or construction of the Trail.

III. RIGHTS, DUTIES, AND OBLIGATIONS OF PAPILLION

Papillion agrees to:

1. Timely review and approve plans, specifications, and construction documents for the Trail submitted by the District, such approvals to not be withheld or delayed unreasonably.
2. Reimburse to the District in one installment, in the amount of 20% of the District's total costs expended for Trail land rights, engineering and construction, but such reimbursement not exceeding \$180,000, such installment to become due and payable on June 30, 2015 or upon completion of such construction, whichever date is later.
3. Permanently operate, maintain and repair the portions of the Trail lying within the limits of Papillion's extraterritorial jurisdiction.
4. Indemnify and hold harmless the District and LaVista, their officers, agents and employees, and their successors and assigns, individually and collectively, from and against any and all liability, causes of action and claims for personal injury or property damage arising from Papillion's operation, maintenance or repair of the portions of the Trail lying within Papillion's extraterritorial jurisdiction.

IV. RIGHTS, DUTIES, AND OBLIGATIONS OF LA VISTA

LaVista agrees to:

1. Timely review and approve plans, specifications, and construction documents for the Trail submitted by the District, such approvals to not be withheld or delayed unreasonably.
2. Reimburse to the District in two installments, in the amount of 5% of the District's total costs expended for Trail land rights, engineering and construction, but such reimbursement not exceeding \$45,000, the first installment of \$30,000 to become due and payable on June 30, 2014 or upon completion of such construction, whichever date is later, and the second installment of \$15,000 to be due and payable on June 30, 2015.

3. Permanently operate, maintain, and repair the portions of the Trail lying within LaVista's extraterritorial jurisdiction.

4. Indemnify and hold harmless the District and Papillion, their officers, agents and employees, and their successors and assigns, individually and collectively, from and against any and all liability, causes of action and claims for personal injury or property damage arising from LaVista's operation, maintenance or repair of the portions of the Trail lying within LaVista's extraterritorial jurisdiction.

V. GENERAL CONDITIONS

1. **NONDISCRIMINATION.** None of the Parties shall, in the performance of this agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, disability as defined under the Americans with Disabilities Act, political or religious opinions, affiliations, or national origin.

2. **CAPTIONS.** Captions used in this agreement are for convenience only.

3. **APPLICABLE LAW.** The Parties shall conform with all existing and applicable city ordinances, resolutions, state and local laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this agreement.

4. **INTEREST OF THE PARTIES.** Each of the Parties to this agreement covenants with the other that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict with its performance under this agreement.

5. **MERGER.** This agreement shall not be merged into any other oral or written contract, lease, or deed of any type.

6. **MODIFICATION.** This agreement contains the complete and entire agreement of the parties. No representations were made or relied upon by any of the Parties other than those expressly set forth herein. No agent, employee, or other representative of any party is empowered to alter any of the terms hereof unless done in writing and signed by an authorized officer of the respective Parties.

7. AMENDMENTS. This agreement may be amended upon the actions of the Parties if done so in writing.

8. ASSIGNMENTS. A party may assign its rights under this agreement only by written consent of the other Parties.

9. EFFECTIVE DATE. This agreement shall become effective on the date that its execution by each and all of the Parties is complete.

This Agreement is executed by PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT this ____ day of _____, 20__.

PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT

By _____
General Manager

This Agreement is executed by THE CITY OF PAPILLION this ____ day of _____, 20__.

THE CITY OF PAPILLION

Attest:

By _____
Mayor

CITY CLERK

This Agreement is executed by THE CITY OF La VISTA this ____ day of _____, 20__.

THE CITY OF La VISTA

Attest:

By _____
Mayor

CITY CLERK

