

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**FEBRUARY 2, 2010 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
MEMORANDUM OF UNDERSTANDING – NEBRASKA DEPARTMENT OF ROADS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

**SYNOPSIS**

A resolution has been prepared authorizing the Mayor to execute a Memorandum of Understanding with the Nebraska Department of Roads (NDOR) in an effort to satisfy the requirements of each entities Illicit Detection and Elimination Program in order to meet the conditions of its National Pollutant Discharge Elimination System (NPDES) permit.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval

**BACKGROUND**

According to State Statutes 39-1339, and 39-2105, the maintenance responsibilities for non-freeway highway appurtenances located within corporate limits reside with the municipality. Therefore, the City of La Vista will be responsible for storm sewer system mapping along non-freeway portions of the state highway system within their municipal separate storm sewer system (MS4). The only area included in this requirement will be 84<sup>th</sup> Street (N-85) from Harrison Street to Giles Road.

The City of La Vista completed mapping of the storm sewer system for 84<sup>th</sup> Street (N-85) in 2008. The information has been captured in an electronic format and is readily available for use by NDOR.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE NEBRASKA DEPARTMENT TO SATISFY THE REQUIREMENTS OF THE ILLICIT DETECTION AND ELIMINATION PROGRAM AND MEET CONDITIONS OF ITS NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM.

WHEREAS, the City Council of the City of La Vista has determined that the maintenance responsibilities for non-freeway highway appurtenances located within corporate limits reside with the municipality according to State Statutes; and

WHEREAS, the City of La Vista will be responsible for storm sewer system mapping along non-freeway portions of the state highway system within the municipal separate storm sewer system (MS4); and

WHEREAS, the only area included in this requirement will be 84<sup>th</sup> Street (N-85) from Harrison Street to Giles Road; and

WHEREAS, the City of La Vista completed mapping of the storm sewer system for 84<sup>th</sup> Street (N-85) in 2008 and the information has been captured in an electronic format and is readily available for use by NDOR;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, authorizing the Mayor and City Clerk to execute a Memorandum of Understanding with the Nebraska Department of Roads to satisfy the requirements of the Illicit Detection and Elimination Program and meet conditions of its National Pollutant Discharge Elimination System.

PASSED AND APPROVED THIS 2ND DAY OF FEBRUARY 2010

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
NEBRASKA DEPARTMENT OF ROADS  
AND  
CITY OF La Vista, NEBRASKA  
FOR  
ILLICIT DETECTION AND ELIMINATION PROGRAM (MS4)  
STORM SEWER SYSTEM MAPPING ALONG STATE HIGHWAYS

WHEREAS, the Nebraska Department of Roads (NDOR) is a regulated municipal separate storm sewer system (MS4), required to meet the conditions of its National Pollutant Discharge Elimination System (NPDES) permit; and

WHEREAS, the City of La Vista is a regulated municipal separate storm sewer system (MS4), required to meet the conditions of its National Pollutant Discharge Elimination System (NPDES) permit; and

WHEREAS, the NPDES permit requires the implementation of an Illicit Discharge Detection and Elimination (IDDE) Program which includes the development of a storm sewer system map, showing the location of all outfalls and the names of all waters of the state that receive discharges from these outfalls; and

NOW THEREFORE, Nebraska Department of Roads and the City of La Vista, in an effort to satisfy the requirements of each IDDE Program, agree to cooperate in the following ways.

I. Area of Responsibility

A. According to State Statute 39-1372, the maintenance responsibilities for freeways, approaches, exit roads, and associated right-of-way within the corporate limits reside with NDOR. Therefore, NDOR will be responsible for storm sewer system mapping along freeway portions of the state highway system within their MS4 boundary.

B. According to State Statutes 39-1339, and 39-2105, the maintenance responsibilities for non-freeway highway appurtenances located within corporate limits reside with the municipality. Therefore, the City of La Vista will be responsible for storm sewer system mapping along non-freeway portions of the state highway system within their MS4 boundary.

II. Data sharing

A. As storm sewer system data is collected by NDOR and City of La Vista, each party agrees to share that information with the other party. This cooperation will help streamline the process of tracking any illicit discharges occurring on state highways within the MS4 boundary.

III. Term of Agreement

A. This agreement shall be in effect upon the last signature date and will continue indefinitely until either party terminates the agreement.

B. Any party may terminate this MOU by providing 30 days notice in writing to the other party.

IV. Signatories

STATE OF NEBRASKA, DEPARTMENT OF ROADS

Sign Name: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

CITY OF La Vista, NEBRASKA

Sign Name: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Print Name: Douglas Kindig Title: Mayor

**39-1339. State highway system; connecting links, defined; duty of Department of Roads.**

Except as provided in section 39-1372, the responsibility of the department for the maintenance of connecting links on the state highway system shall be determined in accordance with the following provisions:

(1) The department shall be liable for the cost of surface maintenance of the traveled way of connecting links, not including the parking lanes thereon, in cities of the metropolitan, primary, and first classes; PROVIDED, such connecting links were constructed under the authority of the department and construction costs were paid in whole or in part with county, state or federal-aid funds. The department shall not be responsible for the maintenance of any connecting link or portion thereof which was not built in whole or in part with county, state or federal-aid funds;

(2) The department shall be liable for all of the surface maintenance of the traveled way of connecting links, including parking lanes thereon, in cities of the second class and villages; PROVIDED, such connecting links were constructed under the authority of the department and construction costs were paid in whole or in part with county, state or federal-aid funds. The department shall not be responsible for the maintenance of any connecting link or portion thereof which was not built with county, state or federal-aid funds;

(3) The responsibility of the department for the maintenance of the connecting links, described in subdivisions (1) and (2) of this section, shall be limited to such things as are caused either by wear and tear of travel on such connecting links or by acts of God. Maintenance shall not be construed to include (a) snow removal, (b) maintenance caused by constructing, placing, replacing, repairing, or servicing water mains, sewers, gas lines, pipes, utility equipment, or other similar things placed beneath, across, or upon the surface of any portion of a connecting link, or (c) repairs or reconstruction going beyond the scope of normal surface maintenance or wear and tear of travel;

(4) The maintenance of structures, on the connecting links described in subdivisions (1) and (2) of this section, shall not be limited to the traveled way but shall include the entire structure; PROVIDED, the department shall have no responsibility for the maintenance of appurtenances to such connecting links and the structures thereon, except by special agreement with the city or village in which the connecting link is situated. Appurtenances shall include, but are not limited to, sidewalks, storm sewers, guardrails, handrails, steps, curb or grate inlets, driveways, fire plugs, or retaining walls;

(5) The department shall maintain and keep in repair all public bridges and the approaches thereto when located in cities of the first class and on connecting links which were constructed under the authority of the department and construction costs were paid in whole or in part with state or federal funds;

(6) Nothing contained in this section shall be construed to prevent the department from entering into special agreements with cities or villages regarding the reconstruction and maintenance of connecting links in such cities and villages; and

(7) As used in this section, unless the context otherwise requires, connecting link shall mean a street now designated as a state highway.

**Source:** Laws 1955, c. 148, § 39, p. 434; Laws 1961, c. 181, § 7, p. 539; Laws 1961, c. 184, § 35, p. 565; Laws 1967, c. 239, § 1, p. 637.

**39-1372. Freeways; maintenance of approach, exit, and frontage roads; lighting facilities.**

(1) The department is charged with the maintenance of any freeway, including approach or exit roads thereto or part thereof whether or not such road is situated within or without the limits of any county, village, or city, including cities of the metropolitan and primary classes, except as hereinafter provided otherwise; PROVIDED, that responsibility for maintenance of frontage roads shall automatically become the responsibility of the county or city in which they are located unless the department contracts to maintain them.

(2) The responsibility of the department for the maintenance of approach and exit roads shall end at the point where such roads terminate, merge, or intersect with city streets or county roads, except as hereinafter provided.

(3) The department is charged with the maintenance of the separation structure of any bridge situated overhead of a freeway except for ice treatment and removal of snow from such structures; PROVIDED, that the department shall not be liable for the maintenance of the approaches to such separation structures or of anything outside the abutments to such separation structures.

(4) The department shall be responsible for construction of lighting facilities upon any part of the roadway of a freeway, including approach or exit roads thereto; PROVIDED, that the maintenance and operation of such lighting facilities located within the limits of any city or village shall become the responsibility of such city or village.

(5) Nothing contained in this section shall be construed to prevent the department from entering into special agreements with cities or villages regarding the reconstruction and maintenance of freeways, including approach or exit roads thereto within the limits of such cities or villages.

**Source:** Laws 1961, c. 184, § 6, p. 552.

### 39-2105. Functional classifications; jurisdictional responsibility.

Jurisdictional responsibility for the various functional classifications of public highways and streets shall be as follows:

(1) The state shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified under the category of rural highways as interstate, expressway, and major arterial, and the municipal extensions thereof, except that the state shall not be responsible for that portion of a municipal extension which exceeds the design of the rural highway leading into the municipality. When the design of a rural highway differs at the different points where it leads into the municipality, the state's responsibility for the municipal extension thereof shall be limited to the lesser of the two designs. The state shall be responsible for the entire interstate system under either the rural or municipal category and for connecting links between the interstate and the nearest existing state highway system in rural areas, except that if such a connecting link has not been improved and a sufficient study by the Department of Roads results in the determination that a link to an alternate state highway would provide better service for the area involved, the department shall have the option of providing the alternate route, subject to satisfactory local participation in the additional cost of the alternate route;

(2) The various counties shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified as other arterial, collector, local, minimum maintenance, and remote residential under the rural highway category;

(3) The various incorporated municipalities shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all streets classified as expressway which are of a purely local nature, that portion of municipal extensions of rural expressways and major arterials which exceeds the design of the rural portions of such systems, and responsibility for those streets classified as other arterial, collector, and local within their corporate limits; and

(4) Jurisdictional responsibility for all scenic-recreation roads and highways shall remain with the governmental subdivision which had jurisdictional responsibility for such road or highway prior to its change in classification to scenic-recreation made pursuant to this section and sections 39-2103, 39-2109, and 39-2113.

**Source:** Laws 1969, c. 312, § 5, p. 1121; Laws 1971, LB 738, § 1; Laws 1980, LB 873, § 2; Laws 1983, LB 10, § 4; Laws 2008, LB1068, § 5. **Effective Date:** July 18, 2008