

**STATE OF NEW MEXICO
COUNTY OF TORRANCE
RESOLUTION NUMBER 2014-55**

**THIRD AMENDED JOINT POWERS AGREEMENT
ESTANCIA VALLEY SOLID WASTE AUTHORITY**

A RESOLUTION TO AMEND THE JOINT POWERS AGREEMENT ESTABLISHING THE ESTANCIA VALLEY SOLID WASTE AUTHORITY TO INCLUDE THE COUNTY OF GUADALUPE AND THE CITY OF SANTA ROSA AS PARTIES; TO RE-STATE, RE-AFFIRM AND CONTINUE THE ESTANCIA VALLEY SOLID WASTE AUTHORITY BOARD; TO RE-STATE, RE-AFFIRM AND CONTINUE THE MUTUAL RIGHTS AND OBLIGATIONS OF THE COUNTY OF TORRANCE, COUNTY OF GUADALUPE, VILLAGE OF ENCINO, TOWN OF ESTANCIA, CITY OF MORIARTY, TOWN OF MOUNTAINAIR, CITY OF SANTA ROSA, TOWN OF VAUGHN, VILLAGE OF WILLARD, AND THE TOWN OF VAUGHN UNDER THE SECOND AMENDED JOINT POWERS AGREEMENT; AND TO EXTEND THOSE MUTUAL RIGHTS AND OBLIGATIONS TO THE CITY OF SANTA ROSA AND THE COUNTY OF VAUGHN UNDER THE THIRD AMENDED JOINT POWERS AGREEMENT.

WHEREAS, the State of New Mexico, through its Environmental Improvement Board, has enacted Solid Waste Regulations 20.9.2 through 20.9.10 NMAC, imposing strict standards on local governments governing the collection and disposal of solid waste and long range goals to reduce the volume of waste being deposited in solid waste landfills; and

WHEREAS, the Joint Powers Agreement Act (the "JPA Act"), NMSA 1978, §§ 11-1-1 et. seq., provides that any county and any municipality may enter into agreements to cooperate and assist each other in exercising and performing any power, authority, duty or function legally invested in them;

WHEREAS, currently the COUNTY OF TORRANCE, VILLAGE OF ENCINO, TOWN OF ESTANCIA, CITY OF MORIARTY, TOWN OF MOUNTAINAIR, TOWN OF VAUGHN, and VILLAGE OF WILLARD jointly develop, operate and fund the ESTANCIA VALLEY SOLID WASTE AUTHORITY (the "Authority" or "EVSWA"), formerly known as the Torrance County Solid Waste Authority, for the purpose of providing a regional solid waste management system pursuant to an existing joint powers agreement;

WHEREAS, currently the EVSWA is a regional solid waste management system comprised of a permitted regional landfill, multiple solid waste Collection centers, multiple recycling centers, and solid waste and recycling equipment;

WHEREAS, the COUNTY OF GUADALUPE AND the CITY OF SANTA ROSA wish to now participate in the development, operation and funding of the EVSWA;

WHEREAS, the COUNTY OF TORRANCE, VILLAGE OF ENCINO, TOWN OF ESTANCIA, CITY OF MORIARTY, TOWN OF MOUNTAINAIR, TOWN OF VAUGHN, and VILLAGE OF WILLARD wish to amend the existing joint powers agreement to include the COUNTY OF GUADALUPE and the CITY OF SANTA ROSA as well as to restate their rights and obligations thereunder;

WHEREAS, pursuant to the JPA Act, the COUNTY OF TORRANCE, VILLAGE OF ENCINO, TOWN OF ESTANCIA, CITY OF MORIARTY, TOWN OF MOUNTAINAIR, TOWN OF VAUGHN, VILLAGE OF WILLARD, and now the COUNTY OF GUADALUPE and the CITY OF SANTA ROSA (collectively "Parties" or individually a "Party") wish to jointly exercise the power to develop, operate and fund the EVSWA as permitted and allowed, and further desire to enter into this JPA to exercise this common power;

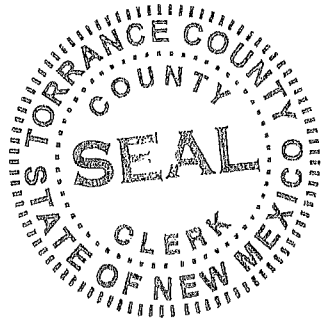
- WHEREAS,** the Parties have determined that this inclusion of the COUNTY OF GUADALUPE and the CITY OF SANTA ROSA in the development, operation and funding of the EVSWA is justified both economically and organizationally;
- WHEREAS,** pursuant to the JPA Act, the Parties hereunder may appoint a board ("Board") to administer or execute the agreement;
- WHEREAS,** the Parties wish to continue the development, operation and funding of the EVSWA;
- WHEREAS,** the Parties wish to redefine control of the EVSWA's administration and performance, including financing the EVSWA, and to reconstitute the Board for the purpose of governing the EVSWA as set forth herein on behalf of the COUNTY OF TORRANCE, VILLAGE OF ENCINO, TOWN OF ESTANCIA, CITY OF MORIARTY, TOWN OF MOUNTAINAIR, TOWN OF VAUGHN, VILLAGE OF WILLARD, COUNTY OF GUADALUPE, and CITY OF SANTA ROSA;
- WHEREAS,** the COUNTY OF GUADALUPE's and the CITY OF SANTA ROSA's adopting resolutions indicate each respective entity's intent to pledge its Environmental Services Gross Receipts Tax ("ESGRT") revenues to the EVSWA and to execute an intercept agreement or agreements for its ESGRT revenues with the New Mexico Finance Authority in the same manner as other Parties to the JPA;
- WHEREAS,** the COUNTY OF GUADALUPE's and the CITY OF SANTA ROSA's adopting resolutions indicate each respective entity's intent to fulfill its obligation to contribute equity to the EVSWA by making any required cash contributions from special funds;
- WHEREAS,** the COUNTY OF GUADALUPE's and the CITY OF SANTA ROSA's adopting resolutions indicate each respective entity's agreement to a Payment Default provision in the JPA that would make it liable for the difference between the member rate and the full rate at the Estancia Valley Regional Landfill operated by the EVSWA should it default in its payment obligations;
- WHEREAS,** the New Mexico Constitution and New Mexico statutes, including but not limited to the Bateman Act, NMSA 1978, Sections 6-6-11 through 6-6-18, limit the authority of municipalities to incur long-term obligations, fixed or contingent, that may impose a burden on future general funds and tax revenues of the municipality;
- WHEREAS,** the COUNTY OF GUADALUPE's and the CITY OF SANTA ROSA's adopting resolutions indicate each respective entity's intent to fund its cash equity contribution payments to the EVSWA and any liabilities that may incur under the Payment Default provision of the JPA from special funds; and
- WHEREAS,** a Third Amended Joint Powers Agreement is attached as Exhibit 1 and fully incorporated as if completely stated herein;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE COUNTY OF TORRANCE, New Mexico, that:

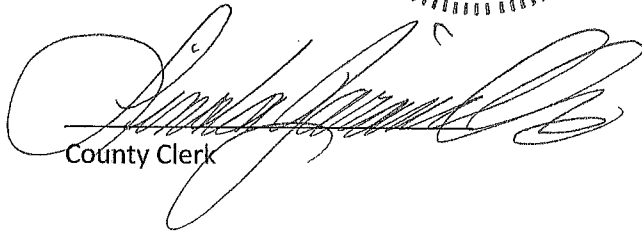
1. The Third Amended Joint Powers Agreement attached as Exhibit 1 to this resolution is approved; and

2. The Undersigned is duly authorized to sign and execute said Joint Powers Agreement on behalf of the County of Torrance.

RESOLVED: In special session this 24th day of November, 2014, in the City of Moriarty, New Mexico.

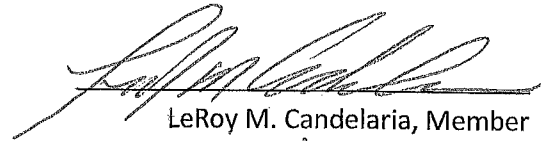


Attest:


County Clerk

TORRANCE COUNTY COMMISSION

Lonnie Freyburger, Chair


LeRoy M. Candelaria, Member


Leanne Tapia, Member