Sandoval County Board of County Commissioners
Agenda Item Summary

AGENDA ITEM # 5-7-15.6D

1. REQUESTED MOTION

ACTION REQUESTED:

Approve a Revised Joint Powers Agreement for Dispatch Services between the City of Rio Rancho, County of Sandoval, Village of Corrales, Town of Bernalillo, and Pueblo of Santa Ana

WHY ACTION IS NECESSARY (Summary):

The Sandoval County Commission approved the JPA for dispatch services on April 16, 2015. There have been minor changes made to the JPA by the City of Rio Rancho that requires Commission approval. (summary continued on next page)

2. REQUESTOR

COMMISSIONER SPONSORED: ☐ YES ☒ NO

DISTRICT: ☐ DISTRICT 1 ☐ DISTRICT 4
☐ DISTRICT 2 ☐ DISTRICT 5
☐ DISTRICT 3

DIRECTOR / ELECTED: James Maxon, Fire Chief
DIVISION: Fire/EMS
ELECTED OFFICE:

ATTACHMENTS: ☒ YES ☐ NO

3. MEETING DATE

May 7, 2015

4. AGENDA (To be completed by County Manager)

☐ PROCLAMATION
☐ PRESENTATION
☒ CONSENT
☐ REGULAR
☐ APPEAL

5. RECOMMENDATIONS

Recommend Board of County Commission approval.

6. FISCAL IMPACT

An increase of $33,348 in dispatch fees will be budgeted next fiscal year (County share of the Rio Rancho administrative fee).

7. RECOMMENDED APPROVAL (Initials & Date)

Department Director/Elected Official	Human Resources	Purchasing	Attorney As to Form	Finance Budget	County Manager	Other
JHM 4/28/15	———	———	PFT 4/30/15	CCH 4/29/15	PPR 4/30/15	———

8. COMMISSION ACTION

☐ Approved ☐ Denied ☐ Deferred ☐ Other

WHY ACTION IS NECESSARY (Summary) continued:

Change highlights to the JPA since the last version that was approved by the Commission on April 16, 2015:

1. Article II Section 3- The Board Chair shall be responsible or delegate the recording of minutes for each meeting of the Board.

2. Article III Section 7.5- If a new entity wishes to join this JPA during the period of this agreement, it shall be represented by Sandoval County on the Board until it has one year of dispatch data in order to calculate its share of the annual SCRECC budget.

3. Article IV Section 3- Termination for Non-Payment In the event that any Member fails to make any payment due under the terms of the JPA within (10) business days of the due date, the City of Rio Rancho shall give written notice to the Entity Member of its delinquency. If the failure to pay is not cured within (15) fifteen business days following receipt of such notice, this JPA shall be suspended as to the Member as the end of the fifteenth day, and the SCRECC shall thereafter have no obligation to provide services to that Member hereunder except for 911 emergency calls. The non-paying Member shall be and remain fully liable for payment of the amounts set forth in Article IV, Section 4, below, prorated to the suspension date. Upon payment of the amount owed, the Member entity shall be removed suspension and full services shall be rendered. When payment has not been received within 90 days of the due date, this JPA shall terminate to the Member entity and no services shall be rendered from that date forward.

4. Article IV Section 5- Amendment This JPA shall not be modified or amended in any respect except by in writing, executed by the authorized representatives of the Members and approved by the Secretary of the New Mexico Department of Finance and Administration.

DRAFT

JOINT POWERS AGREEMENT BETWEEN THE CITY OF RIO RANCHO, THE COUNTY OF SANDOVAL, THE VILLAGE OF CORRALES, THE TOWN OF BERNALILLO, PUEBLO OF SANTA ANA. ALL OF THE NAMED GOVERNMENTAL AGENCIES ARE LOCATED IN THE STATE OF NEW MEXICO.

This Joint Powers Agreement ("JPA") is entered into, subject to approval by the Secretary of the New Mexico Department of Finance and Administration, by and among the City of Rio Rancho, the County of Sandoval, the Village of Corrales, the Town of Bernalillo, Pueblo of Santa Ana, all of which are hereinafter referred to as "the Members", and shall be effective as of the date indicated below. All of the named governmental agencies are located in the State of New Mexico.

WHEREAS, on or about July 1, 2003, the City of Rio Rancho, the County of Sandoval, and the Village of Corrales (collectively, "the Original Members"), entered into a Joint Powers Agreement to establish the Sandoval County Regional Emergency Communications Center ("SCRECC") pursuant to the New Mexico Enhanced 911 Act, NMSA 1978 §§ 63-9D-1, *et seq.*, for the purpose of establishing, operating, administering and maintaining an enhanced 911 regional emergency communications center ("the Center") and delivering enhanced 911 emergency communications services to the emergency services and public safety agencies of the Original Members; and

WHEREAS, the SCRECC is fully operational and the Members wish to enter into a new JPA by which the above named entities shall become permanent members of the SCRECC, and which will govern the operation, administration, and maintenance of the SCRECC, and which JPA shall supersede all prior agreements entered into by the Members concerning the SCRECC;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I – ESTABLISHMENT OF THE SCRECC

Pursuant to the New Mexico Enhanced 911 Act, 1978 N.M.S.A. § 63-9D-1, *et seq.* (the "E-911 Act"), the SCRECC has been established for the express purpose of exercising certain powers conferred upon local governing bodies, as set forth herein. The SCRECC shall oversee operations of Enhanced 911 ("E-911") communications services within the jurisdictional boundaries of the local governments and tribal governments named herein, and act as the vehicle through which the Members receive state funding for those services.

ARTICLE II – BOARD OF DIRECTORS

Section 1. The Board of Directors.

The SCRECC Board ("the Board") shall provide administrative oversight and direction to the SCRECC and shall advise the Members' governing bodies regarding operations. The Board delegates day-to-day operation and management of the SCRECC to the SCRECC Manager, as set forth in Article III of this JPA.

DRAFT

Section 2. Duties and Powers of the Board.

The duties and powers of the Board shall include, but not be limited to, authority to:

1. Annually elect a Chair and Vice-Chair of the Board from its members. The election shall be conducted during the month of July.
2. Have the Rio Rancho Police Chief ~~to~~ present the final candidate(s) for the position of Manager to the SCRECC Board of Directors for Approval/Disapproval, ~~but~~ with the express limitation that the Board shall not be directly responsible for or empowered to make any other personnel decisions.
3. Have the Chair of the Board or their designee participate in the initial interview process for the position of Manager that is conducted by the Rio Rancho Police Ddepartment.
4. Conduct periodic meetings with the staff of the SCRECC to receive reports and provide guidance and direction to the Manager.
5. Create and maintain a 5 year strategic plan for the SCRECC. The plan will be updated and reviewed by the Board at least every 12 months.
6. Review revenue and expenses and prepare a recommended annual budget for the operation of the SCRECC, which shall be submitted for approval to the Members' governing bodies prior to December 1st of each year.
7. Ensure proper management and control over the budget and finances of the SCRECC.
8. Adopt a written job description for the Manager and amend that description as needed.
9. Approve standard operating procedures and policies as developed by the Manager for the operation of the SCRECC.
10. Approve and submit quarterly reports prepared by the Manager to the Members governing bodies.
11. Create and appoint committees as necessary.
12. Consider and address concerns of the Members regarding operation of the SCRECC.
13. Adopt and amend, as needed, procedural rules of order for Board meetings and committee meetings.

2.1 Board Members.

The board shall consist of the following

1. The Rio Rancho Police Chief
2. The Rio Rancho Fire Chief
3. The Sandoval County Sheriff
4. The Sandoval County Fire Chief
5. The Corrales Police Chief
6. The Corrales Fire Chief
7. The Town of Bernalillo Police Chief
8. The Town of Bernalillo Fire Chief
9. The Santa Ana Pueblo Police Chief

2.2 Terms of Office.

Each Board member (sometimes referred to herein as "Director") shall serve as long as such person continues in the position with the Member entity set forth in Section 2.1

2.3 Compensation.

Directors shall not receive any salaries or other compensation for their services on the Board.

Section 3. Meetings.

The Board shall meet regularly, but not less often than quarterly, or at the call of the chair. All Board meetings shall be held in accordance with the New Mexico Open Meetings Act, 1978 N.M.S.A § 10-15-1, *et seq.* The Board shall cause minutes of all meetings to be kept and shall provide copies of said meeting minutes to the Members. The Board Chair shall be responsible or delegate the recording of minutes for each meeting of the Board.

Section 4. Quorum.

A majority of Board members shall constitute a quorum and a majority vote of a quorum present at a duly called meeting shall decide any issue properly before the Board.

Section 5. Voting.

Each entity shall have one (1) vote on the Board, for a total of five (5) votes. The Chair will vote only in the case of a tie. If an entity has two Board members representing it, the two members shall decide between themselves how to vote on a matter, but only one vote may be cast for each entity. When Board Members are absent they may participate in a vote via telephone or designate another person from their entity to vote for them in their absence.

Section 6. Limitations on the Powers of the Board.

Neither the Board nor any of its Members shall be involved in the day-to-day management of the SCRECC except that the Rio Rancho Police Chief shall have such authority as has been expressly delegated by the Members pursuant to this JPA, along with such incidental powers as may be reasonably necessary, to effectuate the purposes and intent of this JPA.

Section 7. Manner of Acting.

The act of a majority of the Members who vote at a meeting ~~at~~ during which a quorum is present shall be the act of the Board of Directors. No Director shall vote on a matter in which he or she has a personal interest or conflict of interest. The Board may, at its discretion, exclude a Director from

some or all of the discussion and/or vote of any matter or issue in which the Director to be excluded has a personal interest or conflict of interest. A personal interest of a Director includes any matter in which the Director or the Director's family (which shall include the Director's spouse and the children, parents, and siblings of the Director or the Director's spouse) has a direct or indirect financial interest. A conflict of interest of a Director is any matter in which the interests of the SCRECC conflict with or may conflict with, directly or indirectly, the interests of the Director or the Director's family. A Director must disclose to the Board any such personal interest or conflict prior to any discussion or vote on any matter coming before the Board that involves or may involve such personal interest or conflict of a Director.

Section 8. Chair of the Board of Directors.

The Board shall annually elect from among its members a Chair, who shall preside at meetings of the Board and shall act on behalf of the Board as authorized by the Board, and a Vice-Chair, who shall act in the Chair's absence.

1. The Chair of the Board may serve a maximum of three consecutive one year terms.
2. Election procedures shall be conducted in order to elect a Chair of the Board. If the Chair is not elected for an additional term, the Vice-Chair of the Board shall move into the Chair position for the Board if they accept it (this is designed to allow for continuity).
3. In the event that the Vice-Chair does not move into the Chair position, they may stay as Vice-Chair provided they are nominated and receive a majority vote from the Board.
4. The Chair and Vice-Chair of the Board will not be from the same local government.

ARTICLE III – MANAGEMENT AND ORGANIZATION OF THE SCRECC

Section 1. SCRECC Manager.

The manager of the SCRECC ("Manager") shall be hired by the City of Rio Rancho, after approval by the Board; shall be an employee of the City of Rio Rancho and shall report directly to the Rio Rancho Police Chief. The Manager shall be responsible for the day-to-day operation and management of the SCRECC. The Manager's duties shall include, but not be limited to, the following:

1. Supervising, disciplining, training, and managing SCRECC employees;
2. Maintaining contact with all agencies utilizing SCRECC;
3. Reporting to the Board on SCRECC matters related to management and finances, including the budget, operations, and equipment associated with the operations;
4. Preparing an annual budget and submitting it to the Board for approval prior to its submission to the Members' governing bodies for final approval;
5. Delegating and performing such other functions as may be reasonably necessary for the operations of the SCRECC;
6. Overseeing and directing the maintenance of the facilities and equipment; and

DRAFT

7. Managing the SCRECC's budget.

Section 2. SCRECC Personnel.

SCRECC employees shall be employees of the City of Rio Rancho and shall be subject to the personnel rules and regulations of the City of Rio Rancho and the standards, policies, procedures, and guidelines for the operation of the SCRECC and Rio Rancho Police Department generally.

Section 3. Collective Bargaining.

The Rio Rancho Police and Communications Association is currently the sole bargaining unit for employees of the City of Rio Rancho Police Department and the SCRECC, and those employees may become members of the Association in accordance with the contract then in place.

Section 4. Fiscal Agent.

The City of Rio Rancho shall act as the Fiscal Agent for the SCRECC and shall collect all revenues accruing to the operations from the entities named within this JPA and shall apply for grants from the New Mexico Enhanced 911 Fund on behalf of the SCRECC. The City of Rio Rancho shall make all disbursements for the operation of the SCRECC and be responsible for financial reports. The City of Rio Rancho will participate in the creation of a five year strategic plan for the SCRECC and agrees to help the Board with an annual review and update to the plan.

The City of Rio Rancho shall be entitled to charge an administrative fee not to exceed 3% of the ACTUAL fiscal year expenditures. An administrative fee amount shall be budgeted each year based on the proposed budget, but shall not be paid for funds not actually expended during the fiscal year. The administrative fee shall not be calculated for funds received from any grant, excess funds carried over for capital expenditures, or any other source other than the contributions made by member entities.

Section 5. Accountability of Funds.

The City of Rio Rancho shall be strictly accountable for all funds disbursed pursuant to this JPA and shall maintain appropriate records as prescribed by law. The City of Rio Rancho will provide the Board with a detailed expenditure report for the dispatch budget when it is requested. A separate fund shall be set up by the City of Rio Rancho for the SCRECC, and excess funding shall not revert to the City of Rio Rancho general fund at the end of each fiscal year. The cash balance left in the SCRECC fund, after all expenses and the administrative fee have been paid, will be placed in a capital outlay line item within the same fund and carried over to the following fiscal year. The capital outlay will be used for future needs of the SCRECC as determined by the Board.

Section 6. SCRECC Budget Meeting.

The SCRECC annual budget meeting will be held in October of each year. The meeting shall be attended by the top official (i.e. City Manager/County Manager) or designee from each entity represented on the SCRECC Board of Directors. The recommended budget shall be ready to present to the Members' governing bodies prior to December 1st of each year. The Board Chair will accompany the Rio Rancho Police Chief to all budget hearings within the City of Rio Rancho concerning the SCRECC.

Section7. Operating Costs.

1. The Members shall pay a pro rata share of the approved total annual budget for the SCRECC, which share shall be determined as set forth herein.

2. Members' pro rata share of the budget shall be calculated or adjusted every three fiscal years. Each Member's pro rata share of the budget shall be equal to the total amount of SCRECC dispatcher time (dispatcher time is defined as the amount of time that each unit is logged onto a call in progress in the computer aided dispatch) spent providing service to that Member jurisdiction during the two previous years, divided by the total amount of dispatcher time spent providing service to all Members' jurisdictions, as determined by the City of Rio Rancho based on records maintained by the SCRECC. The SCRECC Board has approved the following respective shares of the SCRECC budget for the fiscal year ending 2013:

City of Rio Rancho	52%
Sandoval County	34%
Town of Bernalillo	6%
Village of Corrales	4%
Pueblo of Santa Ana	4%

The Members' respective shares of the SCRECC budget shall be recalculated, approved by the Board, and submitted to each of the Members' governing body for approval prior to February 1st of every other year.

3. Payments are due quarterly for service provided during the previous quarter.

4. During the period of this agreement, it may be necessary for several of the entities represented to enter into a cost share agreement for radio maintenance, IT costs, or costs associated with the use of another member's equipment or service. The agreement for additional services will be coordinated between the agencies involved and coordinated by the Chair of the Board or their designee. A signed addendum to this Joint Powers Agreement will be signed by all agencies wanting to have additional services, and the cost will be distributed between the agencies as defined in the addendum. Agencies may enter into a separate memorandum of understanding or JPA to be determined by those agencies including costs.

5. If a new entity wishes to join this JPA during the period of this agreement, it shall be

represented ~~on the board~~ by Sandoval County on the Board until it has one year of dispatch data in order to calculate its share of the annual SCRECC budget.

Section 8. End User Equipment.

Each Member shall be solely responsible for the installation, maintenance, and repair of all radios, antennas, repeaters, and other equipment suitable and necessary to communicate with the SCRECC as determined by the Board. Each Member Entity understands that the SCRECC's ability and obligation to provide enhanced 911 services hereunder is directly dependent upon such equipment being maintained and kept in good working order. Each Entity Member is to bear all costs of installation, operation, and maintenance of such equipment. An agreement for the maintenance of the equipment can be entered into by member agencies based on Section 7.4 of this document.

Section 9. Master Street Address Guide-

The SCRECC shall be generally responsible for maintaining, updating, and providing the necessary information to the telephone company as needed to maintain an accurate Street Address Guide for each of the jurisdictions for which the SCRECC provides services. ~~Recognizing that~~ P~~p~~roper addressing is essential to timely response, ~~however~~therefore, each Member entity shall be responsible for initial addressing of the area within such Member's jurisdiction, and for improving and correcting such addressing when warranted.

ARTICLE IV – TERMS OF AGREEMENT

Section 1. Term.

This JPA shall become effective on the first day of the first full month after its approval by the Secretary of DFA, but each Member agrees that it will abide by the terms of this JPA before such approval, as long as the SCRECC is providing the above-described services to such Member.

Section 2. Termination without Cause.

Any Member may terminate its participation in this JPA by delivery of a written notice to the other Members at least one hundred and eighty (180) days prior to the intended date of such termination. No Member may nullify or avoid any obligations incurred prior to termination.

Section 3. Termination for Non-Payment.

In the event that any Member fails to make any payment due under the terms of this JPA within ten (10) days business days of the due date, the City of Rio Rancho shall give written notice to that Entity Member of its delinquency.~~, and I~~if the failure to pay is not cured within (15) fifteen business days following receipt of such notice, this JPA shall be suspended as to that Member as of the end of that fifteenth day, and the SCRECC shall thereafter have no obligation to provide services to that Member

hereunder except for 911 emergency calls.~~,~~ ~~but that~~ The non-paying Member shall be and remain fully liable for payment of the amounts set forth in Article IV, Section 4, below, prorated to the suspension date. Upon payment of the amount owed, the Member entity shall be removed from suspension and full services shall be rendered. ~~However, w~~When payment has not been received within 90 days of the due date, this JPA shall terminate to that Member entity and no services shall be rendered from that date forward.

In the event a Member is terminated from the JPA for non-payment, 911 calls received by the SCRECC for their jurisdiction will be transferred to them at a number provided by the Member. The SCRECC will relay radio calls for emergency units in distress, but will not dispatch routine calls to Member agencies that have been terminated for non-payment.

Section 4. Liability.

No Member shall have any responsibility whatsoever for any actions or omissions of any other Member or the officers, agents, or employees of any other Member in the conduct of activities hereunder. The preceding sentence is intended only to define the liabilities among the parties hereto, and it is not intended to modify, in any way, the parties' liabilities as governed by federal, state, tribal, or common law, the New Mexico Tort Claims Act, or any applicable consent to suit. Any liability of the City, County, Village, or Town incurred in connection with this JPA is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1, *et seq.*, as amended, and the express immunity granted pursuant to NMSA 1978 § 63-9D-10. No provision of this JPA modifies or waives any provision of the New Mexico Tort Claims Act. By entering into this JPA, the Pueblo does not waive or limit its sovereign immunity with respect to any claims by any third party beyond any applicable waivers included in Pueblo law, and does not waive any other defense(s) or limitation(s) of liability pursuant to applicable law.

Section 5. Amendment.

This JPA shall not be modified or amended in any respect except by a writing, executed by the authorized representatives of the Members and approved by the Secretary of the New Mexico Department of Finance and Administration.

Section 6. Governing Law.

This JPA shall be interpreted in accordance with the laws of the State of New Mexico.

Section 7. Appropriations.

The terms of this JPA are contingent upon sufficient appropriations and authorization being made by the Members' governing bodies for the performance of this JPA. Any Member that does not receive sufficient appropriations and authorization may terminate its participation in this JPA according to Section 2 of Article V. A Member's determination as to whether it received sufficient appropriations and authorization shall be conclusive.

DRAFT

Section 8. Status of the JPA.

The Members acknowledge and agree that this JPA constitutes an "agreement" as that term is used in the New Mexico Joint Powers Agreements Act, 1978 N.M.S.A. § 11-1-7 (the "JPA Act").

Section 9. Accountability.

During the term of this JPA and for a period of three years thereafter, each of the Members shall maintain accurate and complete records of all disbursements made and monies received by each pursuant to this JPA, and upon receipt of a reasonable written request, each shall make such records available during regular business hours to the other Members, or to any federal, state, or local authority, and to the public as required by law.

Section 10. Distribution of Residual Property.

At the end of the term, the Members shall distribute and dispose of all property acquired by SCRECC in connection with this JPA. In the absence of an agreement that specifically provides for the division or distribution of such property, such property shall be distributed to the Member that purchased it; or if the property was acquired by more than one Member, the property shall be distributed to those Members in accordance with that Member's pro rata share of the acquisition and maintenance costs of the property.

Section 11. Conformity with the JPA Act.

The Members intend that this JPA conform in all respects with the JPA Act and that this JPA shall be construed and enforced in conformity with the JPA Act. In case of any inconsistency between this JPA and the provisions of the JPA Act, the provisions of the JPA Act shall control and this JPA shall be deemed to be amended, so that such controlling provisions of the JPA Act are incorporated into and made part of this JPA, and any inconsistent provisions of this JPA are deleted to the extent of the inconsistency.

Section 12. Severability of Provisions.

If any of the provisions of this JPA are held invalid, the remainder of this JPA shall not be affected unless any provision held as invalid makes the fulfillment of the majority of the purposes of this JPA impossible or impracticable.

Section 13. No Waiver of Jurisdiction by Any Pueblo

Except as otherwise expressly provided herein, nothing herein shall constitute a waiver of any Pueblo's immunity from state jurisdiction, as a matter of federal law, and to the extent any Member provides any services within the Pueblo's boundaries pursuant to the enhanced 911

system created hereby, such entity shall be deemed to be acting on behalf of the Pueblo and pursuant to Pueblo law in performing such services. Notwithstanding anything to the contrary contained herein, the City of Rio Rancho shall not, by providing any services hereunder, be subject to Pueblo law or subject to the jurisdiction of any Pueblo court.

Section 14. Limited Waiver of Sovereign Immunity by the Pueblo. In consideration of the obligations of the City of Rio Rancho and the SCRECC hereunder to provide enhanced 911 services for the Pueblo of Santa Ana prior to payment for each period in which such services are provided, the Pueblo hereby agrees to waive its sovereign immunity and to be subject to the jurisdiction of any court having jurisdiction over the City of Rio Rancho or the SCRECC, for the limited purpose of enforcing the Pueblo's financial commitments hereunder attributable to periods during which services have already been provided. Nothing herein shall be construed as waiving the Pueblo's sovereign immunity, or any other defense the Pueblo may have, for any other purpose or proceeding whatsoever.

Section15. Prior Agreements.

All prior agreements among or between any of the Members concerning the SCRECC shall terminate as of the effective date of this JPA.

Section 16. Dispute Resolution.

In the event of any dispute, claim, question, or disagreement arising from or related to this JPA or the breach thereof, the Members hereto shall first use their best-efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall in good faith, and recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to all Members through discussions among themselves; then, if necessary, by mediation.

Section 17. Counterparts.

In order to expedite the execution of this JPA by each of the Members, this JPA may be executed in any number of counterparts, all of which together shall constitute one agreement.

Section 18. Previous JPA Documents.

Upon execution, this agreement shall replace and supersede all previous agreements between the parties to this JPA. The fiscal provisions in this JPA will not take effect until July 1, 2015.

DRAFT

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates indicated.

CITY OF RIO RANCHO

By: _____ **Date:** _____
Keith J. Riesberg, City Manager

Approved as to form:

_____ **Date:** _____
Jennifer Vega-Brown, City Attorney

BOARD OF COUNTY COMMISSIONERS SANDOVAL COUNTY

By: _____ **Date:** _____
Darryl Madalena, Chairman

By: _____ **Date:** _____
James Dominguez, Vice Chairman

By: _____ **Date:** _____
Nora Scherzinger, Member

By: _____ **Date:** _____
Don G. Chapman, Member

By: _____ **Date:** _____
Glenn Walters, Member

Attest:

By: _____ **Date:** _____
Eileen Garbagni, County Clerk

Approved as to form:

By: _____ **Date:** _____
Patrick Trujillo, County Attorney

DRAFT

TOWN OF BERNALILLO

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

Attest:

By: _____ **Date:** _____

Approved as to Form:

By: _____ **Date:** _____

VILLAGE OF CORRALES

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

Attest:

By: _____ **Date:** _____

Approved as to Form:

By: _____ **Date:** _____

SANTA ANA PUEBLO

By: _____ **Date:** _____

Lawrence Montoya, Governor

DRAFT

Approved as to Form:

By: _____ **Date:** _____

Richard W. Hughes, Attorney

JOINT POWERS AGREEMENT BETWEEN THE CITY OF RIO RANCHO, THE COUNTY OF SANDOVAL, THE VILLAGE OF CORRALES, THE TOWN OF BERNALILLO, PUEBLO OF SANTA ANA. ALL OF THE NAMED GOVERNMENTAL AGENCIES ARE LOCATED IN THE STATE OF NEW MEXICO.

This Joint Powers Agreement ("JPA") is entered into, subject to approval by the Secretary of the New Mexico Department of Finance and Administration, by and among the City of Rio Rancho, the County of Sandoval, the Village of Corrales, the Town of Bernalillo, Pueblo of Santa Ana, all of which are hereinafter referred to as "the Members", and shall be effective as of the date indicated below. All of the named governmental agencies are located in the State of New Mexico.

WHEREAS, on or about July 1, 2003, the City of Rio Rancho, the County of Sandoval, and the Village of Corrales (collectively, "the Original Members"), entered into a Joint Powers Agreement to establish the Sandoval County Regional Emergency Communications Center ("SCRECC") pursuant to the New Mexico Enhanced 911 Act, NMSA 1978 §§ 63-9D-1, *et seq.*, for the purpose of establishing, operating, administering and maintaining an enhanced 911 regional emergency communications center ("the Center") and delivering enhanced 911 emergency communications services to the emergency services and public safety agencies of the Original Members; and

WHEREAS, the SCRECC is fully operational and the Members wish to enter into a new JPA by which the above named entities shall become permanent members of the SCRECC, and which will govern the operation, administration, and maintenance of the SCRECC, and which JPA shall supersede all prior agreements entered into by the Members concerning the SCRECC;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I – ESTABLISHMENT OF THE SCRECC

Pursuant to the New Mexico Enhanced 911 Act, 1978 N.M.S.A. § 63-9D-1, *et seq.* (the "E-911 Act"), the SCRECC has been established for the express purpose of exercising certain powers conferred upon local governing bodies, as set forth herein. The SCRECC shall oversee operations of Enhanced 911 ("E-911") communications services within the jurisdictional boundaries of the local governments and tribal governments named herein, and act as the vehicle through which the Members receive state funding for those services.

ARTICLE II – BOARD OF DIRECTORS

Section 1. The Board of Directors.

The SCRECC Board ("the Board") shall provide administrative oversight and direction to the SCRECC and shall advise the Members' governing bodies regarding operations. The Board delegates day-to-day operation and management of the SCRECC to the SCRECC Manager, as set forth in Article III of this JPA.

Section 2. Duties and Powers of the Board.

The duties and powers of the Board shall include, but not be limited to, authority to:

1. Annually elect a Chair and Vice-Chair of the Board from its members. The election shall be conducted during the month of July.
2. Have the Rio Rancho Police Chief present the final candidate(s) for the position of Manager to the SCRECC Board of Directors for Approval/Disapproval, with the express limitation that the Board shall not be directly responsible for or empowered to make any other personnel decisions.
3. Have the Chair of the Board or their designee participate in the initial interview process for the position of Manager that is conducted by the Rio Rancho Police Department.
4. Conduct periodic meetings with the staff of the SCRECC to receive reports and provide guidance and direction to the Manager.
5. Create and maintain a 5 year strategic plan for the SCRECC. The plan will be updated and reviewed by the Board at least every 12 months.
6. Review revenue and expenses and prepare a recommended annual budget for the operation of the SCRECC, which shall be submitted for approval to the Members' governing bodies prior to December 1st of each year.
7. Ensure proper management and control over the budget and finances of the SCRECC.
8. Adopt a written job description for the Manager and amend that description as needed.
9. Approve standard operating procedures and policies as developed by the Manager for the operation of the SCRECC.
10. Approve and submit quarterly reports prepared by the Manager to the Members governing bodies.
11. Create and appoint committees as necessary.
12. Consider and address concerns of the Members regarding operation of the SCRECC.
13. Adopt and amend, as needed, procedural rules of order for Board meetings and committee meetings.

2.1 Board Members.

The board shall consist of the following

1. The Rio Rancho Police Chief
2. The Rio Rancho Fire Chief
3. The Sandoval County Sheriff
4. The Sandoval County Fire Chief
5. The Corrales Police Chief
6. The Corrales Fire Chief
7. The Town of Bernalillo Police Chief
8. The Town of Bernalillo Fire Chief
9. The Santa Ana Pueblo Police Chief

2.2 Terms of Office.

Each Board member (sometimes referred to herein as "Director") shall serve as long as such person continues in the position with the Member entity set forth in Section 2.1

2.3 Compensation.

Directors shall not receive any salaries or other compensation for their services on the Board.

Section 3. Meetings.

The Board shall meet regularly, but not less often than quarterly, or at the call of the chair. All Board meetings shall be held in accordance with the New Mexico Open Meetings Act, 1978 N.M.S.A § 10-15-1, *et seq.* The Board shall cause minutes of all meetings to be kept and shall provide copies of said meeting minutes to the Members. The Board Chair shall be responsible or delegate the recording of minutes for each meeting of the Board.

Section 4. Quorum.

A majority of Board members shall constitute a quorum and a majority vote of a quorum present at a duly called meeting shall decide any issue properly before the Board.

Section 5. Voting.

Each entity shall have one (1) vote on the Board, for a total of five (5) votes. The Chair will vote only in the case of a tie. If an entity has two Board members representing it, the two members shall decide between themselves how to vote on a matter, but only one vote may be cast for each entity. When Board Members are absent they may participate in a vote via telephone or designate another person from their entity to vote for them in their absence.

Section 6. Limitations on the Powers of the Board.

Neither the Board nor any of its Members shall be involved in the day-to-day management of the SCRECC except that the Rio Rancho Police Chief shall have such authority as has been expressly delegated by the Members pursuant to this JPA, along with such incidental powers as may be reasonably necessary, to effectuate the purposes and intent of this JPA.

Section 7. Manner of Acting.

The act of a majority of the Members who vote at a meeting during which a quorum is present shall be the act of the Board of Directors. No Director shall vote on a matter in which he or she has a personal interest or conflict of interest. The Board may, at its discretion, exclude a Director from

some or all of the discussion and/or vote of any matter or issue in which the Director to be excluded has a personal interest or conflict of interest. A personal interest of a Director includes any matter in which the Director or the Director's family (which shall include the Director's spouse and the children, parents, and siblings of the Director or the Director's spouse) has a direct or indirect financial interest. A conflict of interest of a Director is any matter in which the interests of the SCRECC conflict with or may conflict with, directly or indirectly, the interests of the Director or the Director's family. A Director must disclose to the Board any such personal interest or conflict prior to any discussion or vote on any matter coming before the Board that involves or may involve such personal interest or conflict of a Director.

Section 8. Chair of the Board of Directors.

The Board shall annually elect from among its members a Chair, who shall preside at meetings of the Board and shall act on behalf of the Board as authorized by the Board, and a Vice-Chair, who shall act in the Chair's absence.

1. The Chair of the Board may serve a maximum of three consecutive one year terms.
2. Election procedures shall be conducted in order to elect a Chair of the Board. If the Chair is not elected for an additional term, the Vice-Chair of the Board shall move into the Chair position for the Board if they accept it (this is designed to allow for continuity).
3. In the event that the Vice-Chair does not move into the Chair position, they may stay as Vice-Chair provided they are nominated and receive a majority vote from the Board.
4. The Chair and Vice-Chair of the Board will not be from the same local government.

ARTICLE III – MANAGEMENT AND ORGANIZATION OF THE SCRECC

Section 1. SCRECC Manager.

The manager of the SCRECC ("Manager") shall be hired by the City of Rio Rancho, after approval by the Board; shall be an employee of the City of Rio Rancho and shall report directly to the Rio Rancho Police Chief. The Manager shall be responsible for the day-to-day operation and management of the SCRECC. The Manager's duties shall include, but not be limited to, the following:

1. Supervising, disciplining, training, and managing SCRECC employees;
2. Maintaining contact with all agencies utilizing SCRECC;
3. Reporting to the Board on SCRECC matters related to management and finances, including the budget, operations, and equipment associated with the operations;
4. Preparing an annual budget and submitting it to the Board for approval prior to its submission to the Members' governing bodies for final approval;
5. Delegating and performing such other functions as may be reasonably necessary for the operations of the SCRECC;
6. Overseeing and directing the maintenance of the facilities and equipment; and

7. Managing the SCRECC's budget.

Section 2. SCRECC Personnel.

SCRECC employees shall be employees of the City of Rio Rancho and shall be subject to the personnel rules and regulations of the City of Rio Rancho and the standards, policies, procedures, and guidelines for the operation of the SCRECC and Rio Rancho Police Department generally.

Section 3. Collective Bargaining.

The Rio Rancho Police and Communications Association is currently the sole bargaining unit for employees of the City of Rio Rancho Police Department and the SCRECC, and those employees may become members of the Association in accordance with the contract then in place.

Section 4. Fiscal Agent.

The City of Rio Rancho shall act as the Fiscal Agent for the SCRECC and shall collect all revenues accruing to the operations from the entities named within this JPA and shall apply for grants from the New Mexico Enhanced 911 Fund on behalf of the SCRECC. The City of Rio Rancho shall make all disbursements for the operation of the SCRECC and be responsible for financial reports. The City of Rio Rancho will participate in the creation of a five year strategic plan for the SCRECC and agrees to help the Board with an annual review and update to the plan.

The City of Rio Rancho shall be entitled to charge an administrative fee not to exceed 3% of the ACTUAL fiscal year expenditures. An administrative fee amount shall be budgeted each year based on the proposed budget, but shall not be paid for funds not actually expended during the fiscal year. The administrative fee shall not be calculated for funds received from any grant, excess funds carried over for capital expenditures, or any other source other than the contributions made by member entities.

Section 5. Accountability of Funds.

The City of Rio Rancho shall be strictly accountable for all funds disbursed pursuant to this JPA and shall maintain appropriate records as prescribed by law. The City of Rio Rancho will provide the Board with a detailed expenditure report for the dispatch budget when it is requested. A separate fund shall be set up by the City of Rio Rancho for the SCRECC, and excess funding shall not revert to the City of Rio Rancho general fund at the end of each fiscal year. The cash balance left in the SCRECC fund, after all expenses and the administrative fee have been paid, will be placed in a capital outlay line item within the same fund and carried over to the following fiscal year. The capital outlay will be used for future needs of the SCRECC as determined by the Board.

Section 6. SCRECC Budget Meeting.

The SCRECC annual budget meeting will be held in October of each year. The meeting shall be attended by the top official (i.e. City Manager/County Manager) or designee from each entity represented on the SCRECC Board of Directors. The recommended budget shall be ready to present to the Members' governing bodies prior to December 1st of each year. The Board Chair will accompany the Rio Rancho Police Chief to all budget hearings within the City of Rio Rancho concerning the SCRECC.

Section7. Operating Costs.

1. The Members shall pay a pro rata share of the approved total annual budget for the SCRECC, which share shall be determined as set forth herein.

2. Members' pro rata share of the budget shall be calculated or adjusted every three fiscal years. Each Member's pro rata share of the budget shall be equal to the total amount of SCRECC dispatcher time (dispatcher time is defined as the amount of time that each unit is logged onto a call in progress in the computer aided dispatch) spent providing service to that Member jurisdiction during the two previous years, divided by the total amount of dispatcher time spent providing service to all Members' jurisdictions, as determined by the City of Rio Rancho based on records maintained by the SCRECC. The SCRECC Board has approved the following respective shares of the SCRECC budget for the fiscal year ending 2013:

City of Rio Rancho	52%
Sandoval County	34%
Town of Bernalillo	6%
Village of Corrales	4%
Pueblo of Santa Ana	4%

The Members' respective shares of the SCRECC budget shall be recalculated, approved by the Board, and submitted to each of the Members' governing body for approval prior to February 1st of every other year.

3. Payments are due quarterly for service provided during the previous quarter.

4. During the period of this agreement, it may be necessary for several of the entities represented to enter into a cost share agreement for radio maintenance, IT costs, or costs associated with the use of another member's equipment or service. The agreement for additional services will be coordinated between the agencies involved and coordinated by the Chair of the Board or their designee. A signed addendum to this Joint Powers Agreement will be signed by all agencies wanting to have additional services, and the cost will be distributed between the agencies as defined in the addendum. Agencies may enter into a separate memorandum of understanding or JPA to be determined by those agencies including costs.

5. If a new entity wishes to join this JPA during the period of this agreement, it shall be

represented by Sandoval County on the Board until it has one year of dispatch data in order to calculate its share of the annual SCRECC budget.

Section 8. End User Equipment.

Each Member shall be solely responsible for the installation, maintenance, and repair of all radios, antennas, repeaters, and other equipment suitable and necessary to communicate with the SCRECC as determined by the Board. Each Member Entity understands that the SCRECC's ability and obligation to provide enhanced 911 services hereunder is directly dependent upon such equipment being maintained and kept in good working order. Each Entity Member is to bear all costs of installation, operation, and maintenance of such equipment. An agreement for the maintenance of the equipment can be entered into by member agencies based on Section 7.4 of this document.

Section 9. Master Street Address Guide-

The SCRECC shall be generally responsible for maintaining, updating, and providing the necessary information to the telephone company as needed to maintain an accurate Street Address Guide for each of the jurisdictions for which the SCRECC provides services. Proper addressing is essential to timely response, therefore, each Member entity shall be responsible for initial addressing of the area within such Member's jurisdiction, and for improving and correcting such addressing when warranted.

ARTICLE IV – TERMS OF AGREEMENT

Section 1. Term.

This JPA shall become effective on the first day of the first full month after its approval by the Secretary of DFA, but each Member agrees that it will abide by the terms of this JPA before such approval, as long as the SCRECC is providing the above-described services to such Member.

Section 2. Termination without Cause.

Any Member may terminate its participation in this JPA by delivery of a written notice to the other Members at least one hundred and eighty (180) days prior to the intended date of such termination. No Member may nullify or avoid any obligations incurred prior to termination.

Section 3. Termination for Non-Payment.

In the event that any Member fails to make any payment due under the terms of this JPA within ten (10) business days of the due date, the City of Rio Rancho shall give written notice to that Entity Member of its delinquency .If the failure to pay is not cured within (15) fifteen business days following receipt of such notice, this JPA shall be suspended as to that Member as of the end of that fifteenth day, and the SCRECC shall thereafter have no obligation to provide services to that Member

hereunder except for 911 emergency calls. The non-paying Member shall be and remain fully liable for payment of the amounts set forth in Article IV, Section 4, below, prorated to the suspension date. Upon payment of the amount owed, the Member entity shall be removed from suspension and full services shall be rendered. When payment has not been received within 90 days of the due date, this JPA shall terminate to that Member entity and no services shall be rendered from that date forward.

In the event a Member is terminated from the JPA for non-payment, 911 calls received by the SCRECC for their jurisdiction will be transferred to them at a number provided by the Member. The SCRECC will relay radio calls for emergency units in distress, but will not dispatch routine calls to Member agencies that have been terminated for non-payment.

Section 4. Liability.

No Member shall have any responsibility whatsoever for any actions or omissions of any other Member or the officers, agents, or employees of any other Member in the conduct of activities hereunder. The preceding sentence is intended only to define the liabilities among the parties hereto, and it is not intended to modify, in any way, the parties' liabilities as governed by federal, state, tribal, or common law, the New Mexico Tort Claims Act, or any applicable consent to suit. Any liability of the City, County, Village, or Town incurred in connection with this JPA is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1, *et seq.*, as amended, and the express immunity granted pursuant to NMSA 1978 § 63-9D-10. No provision of this JPA modifies or waives any provision of the New Mexico Tort Claims Act. By entering into this JPA, the Pueblo does not waive or limit its sovereign immunity with respect to any claims by any third party beyond any applicable waivers included in Pueblo law, and does not waive any other defense(s) or limitation(s) of liability pursuant to applicable law.

Section 5. Amendment.

This JPA shall not be modified or amended in any respect except by a writing, executed by the authorized representatives of the Members and approved by the Secretary of the New Mexico Department of Finance and Administration.

Section 6. Governing Law.

This JPA shall be interpreted in accordance with the laws of the State of New Mexico.

Section 7. Appropriations.

The terms of this JPA are contingent upon sufficient appropriations and authorization being made by the Members' governing bodies for the performance of this JPA. Any Member that does not receive sufficient appropriations and authorization may terminate its participation in this JPA according to Section 2 of Article V. A Member's determination as to whether it received sufficient appropriations and authorization shall be conclusive.

Section 8. Status of the JPA.

The Members acknowledge and agree that this JPA constitutes an "agreement" as that term is used in the New Mexico Joint Power. Agreements Act, 1978 N.M.S.A. § 11-1-7 (the "JPA Act").

Section 9. Accountability.

During the term of this JPA and for a period of three years thereafter, each of the Members shall maintain accurate and complete records of all disbursements made and monies received by each pursuant to this JPA, and upon receipt of a reasonable written request, each shall make such records available during regular business hours to the other Members, or to any federal, state, or local authority, and to the public as required by law.

Section 10. Distribution of Residual Property.

At the end of the term, the Members shall distribute and dispose of all property acquired by SCRECC in connection with this JPA. In the absence of an agreement that specifically provides for the division or distribution of such property, such property shall be distributed to the Member that purchased it; or if the property was acquired by more than one Member, the property shall be distributed to those Members in accordance with that Member's pro rata share of the acquisition and maintenance costs of the property.

Section 11. Conformity with the JPA Act.

The Members intend that this JPA conform in all respects with the JPA Act and that this JPA shall be construed and enforced in conformity with the JPA Act. In case of any inconsistency between this JPA and the provisions of the JPA Act, the provisions of the JPA Act shall control and this JPA shall be deemed to be amended, so that such controlling provisions of the JPA Act are incorporated into and made part of this JPA, and any inconsistent provisions of this JPA are deleted to the extent of the inconsistency.

Section 12. Severability of Provisions.

If any of the provisions of this JPA are held invalid, the remainder of this JPA shall not be affected unless any provision held as invalid makes the fulfillment of the majority of the purposes of this JPA impossible or impracticable.

Section 13. No Waiver of Jurisdiction by Any Pueblo

Except as otherwise expressly provided herein, nothing herein shall constitute a waiver of any Pueblo's immunity from state jurisdiction, as a matter of federal law, and to the extent any Member provides any services within the Pueblo's boundaries pursuant to the enhanced 911 system created hereby, such entity shall be deemed to be acting on behalf of the Pueblo and pursuant to Pueblo law in performing such services. Notwithstanding anything to the contrary

contained herein, the City of Rio Rancho shall not, by providing any services hereunder, be subject to Pueblo law or subject to the jurisdiction of any Pueblo court.

Section 14. Limited Waiver of Sovereign Immunity by the Pueblo. In consideration of the obligations of the City of Rio Rancho and the SCRECC hereunder to provide enhanced 911 services for the Pueblo of Santa Ana prior to payment for each period in which such services are provided, the Pueblo hereby agrees to waive its sovereign immunity and to be subject to the jurisdiction of any court having jurisdiction over the City of Rio Rancho or the SCRECC, for the limited purpose of enforcing the Pueblo's financial commitments hereunder attributable to periods during which services have already been provided. Nothing herein shall be construed as waiving the Pueblo's sovereign immunity, or any other defense the Pueblo may have, for any other purpose or proceeding whatsoever.

Section15. Prior Agreements.

All prior agreements among or between any of the Members concerning the SCRECC shall terminate as of the effective date of this JPA.

Section 16. Dispute Resolution.

In the event of any dispute, claim, question, or disagreement arising from or related to this JPA or the breach thereof, the Members hereto shall first use their best-efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall in good faith, and recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to all Members through discussions among themselves; then, if necessary, by mediation.

Section 17. Counterparts.

In order to expedite the execution of this JPA by each of the Members, this JPA may be executed in any number of counterparts, all of which together shall constitute one agreement.

Section 18. Previous JPA Documents.

Upon execution, this agreement shall replace and supersede all previous agreements between the parties to this JPA. The fiscal provisions in this JPA will not take effect until July 1, 2015.

IN WITNESS WHEREOF, the parties have executed this agreement as of the dates indicated.

CITY OF RIO RANCHO

By: _____ **Date:** 4/8/15
Keith J. Riesberg, City Manager

Approved as to form:

_____ **Date:** 4/8/2015
Jennifer Vega-Brown, City Attorney

BOARD OF COUNTY COMMISSIONERS SANDOVAL COUNTY

By: _____ **Date:** _____
Darryl Madalena, Chairman

By: _____ **Date:** _____
James Dominguez, Vice Chairman

By: _____ **Date:** _____
Nora Scherzinger, Member

By: _____ **Date:** _____
Don G. Chapman, Member

By: _____ **Date:** _____
Glenn Walters, Member

Attest:

By: _____ **Date:** _____
Eileen Garbagni, County Clerk

Approved as to form:

By: _____ **Date:** _____
Patrick Trujillo, County Attorney

TOWN OF BERNALILLO

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

Attest:

By: _____ **Date:** _____

Approved as to Form:

By: _____ **Date:** _____

VILLAGE OF CORRALES

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

By: _____ **Date:** _____

Attest:

By: _____ **Date:** _____

Approved as to Form:

By: _____ **Date:** _____

SANTA ANA PUEBLO

By: _____ **Date:** _____
Lawrence Montoya, Governor

Approved as to Form:

By: _____ **Date:** _____

Richard W. Hughes, Attorney