

**JOINT POWERS AGREEMENT
TO PROVIDE ANIMAL CONTROL WITHIN THE BOUNDARIES OF THE COUNTY
OF SIERRA
BETWEEN
THE COUNTY OF SIERRA
AND
THE CITY OF TRUTH OR CONSEQUENCES**

THIS AGREEMENT is entered into by and between the County of Sierra (“County”) and the City of Truth or Consequences (“City”) referred to collectively as the (“parties”).

I. RECITALS

WHEREAS, the County and the City are bodies corporate and politic existing by and under the Constitution and Laws of the State of New Mexico; and,

WHEREAS, stray dogs, cats and other animals running at large in Sierra County pose a danger to the health safety and welfare of the citizens of the County; and,

WHEREAS, the City employees and equips animal control officers and,

WHEREAS, the County currently does not have an animal control program; and,

WHEREAS, the County and City have agreed to share resources in order to protect the citizens of the County and to humanely treat the stray animals in the County through the joint exercise of the City’s Animal Control Officers,

NOW THEREFORE the parties hereby agree as follows:

II. COMMON POWER

Is the power to “protect generally the property of its municipality and its inhabitants” and to “preserve peace and order” and , “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of ... its inhabitants”. See NMSA 1978, § 3-18-1 (1972) and NMSA 1978, § 4-37-1 (1995)

III. SCOPE OF DUTIES

THE CITY SHALL

1. Provide, through Animal Control Officers (ACO), control of dogs and other animals and enforcement of the County’s Animal Control regulations as time permits.
2. Respond to service calls for animal control within the county from only the County Manager, County Clerk’s Office or a County Law Enforcement Officer.

3. Upon receipt of a call for service the ACO will respond in a timely manner. Said response shall be for no longer than 1 (one) hours time. If pursuit/search of the animal will go beyond the first authorized hour, the ACO must seek approval for one or more additional hour(s) to continue the search for the animal. If the subsequent hour(s) is/are not authorized in the manner prescribed by this agreement, the pursuit/search will be discontinued.
4. Upon capture of an animal, the ACO will transport said animal to the "animal shelter" unless the owner can be located before the animal is transported.
5. Submit to the County a monthly statement showing amount due and dates which the City ACO responded to calls from the County.

THE COUNTY SHALL

1. Pay to the City the sum of Thirty Dollars (\$30.00), for each hour of response time by the City ACO as requested by the County Manager, County Clerk's Office or a County Law Enforcement Officer.
2. Be responsible for any charges arising from the "animal shelter" related to care, feeding and disposal.
3. Be responsible for any enforcement action against the responsible County resident.
4. Pay the hourly rate for any Court time resulting from enforcement action.
5. Make payment to the City within Thirty (30) days after the receipt of each monthly statement

IV. TERM

This JPA becomes effective upon signature by all parties hereto and approval by DFA pursuant to NMSA 1978, Section 11-1-3 (1961) and shall remain in effect for three (3) years until it is terminated pursuant to the terms of this JPA.

V. PROPERTY

No property shall be acquired as a result of this JPA and the disposition of records generated by performance of this agreement shall be decided by the parties upon termination.

VI. STRICT ACCOUNTABILITY OF ALL RECEIPTS AND DISBURSEMENTS

Each party shall be strictly accountable for all receipts and disbursements under this Agreement.

VII. AMENDMENT

This JPA shall not be altered, modified, or amended except by an instrument in writing executed by both parties hereto and approved by the New Mexico Department of Finance

and Administration (“DFA”).

VIII. ASSIGNMENT

This JPA may not be assigned by either party hereto without the advance written consent of the other party, which consent may be withheld at the other party’s sole and absolute discretion.

IX. GOVERNING LAW

This JPA and the rights of the parties hereto shall be governed by and construed in accordance with the Laws of the State of New Mexico.

X. SEVERABILITY

If any provision of this JPA, or the application of such provisions to any person or circumstances shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this JPA, or the application of its provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and the remainder of this JPA can be performed in substantial accordance with the original intent of the parties hereto.

XI. INTEGRATION OF JPA

This JPA incorporates all of the agreements and understandings between the parties hereto concerning the subject matter hereof, and all such agreements and understandings have been merged into this written JPA. No prior agreements or understandings, verbal or otherwise, of the parties or their agents are valid or enforceable unless embodied in this JPA.

XII. NEW MEXICO TORT CLAIMS ACT

By entering into this JPA, each party agrees that it shall be responsible for liability arising from personal injury or damage to property occasioned by its own agents or employees in the performance of this JPA, subject in all cases to the immunities and limitation of the New Mexico Tort Claims Act (NMSA 1978, Section 41-4-1, et seq.) and any amendments thereto. This section is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties’ liabilities as governed by common law or the New Mexico Tort Claims Act. The parties and their “public employees,” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, and do not waive any defense or limitations of liability pursuant to law. No provision in this JPA modifies and/or waives any provision of the New Mexico Tort Claims Act.

VII. PRIVILEGES, EXEMPTIONS , AND IMMUNITIES

Pursuant to the provisions of the Joint Powers Act, NMSA 1978, Sections 11-1-1 et seq., all privileges and immunities from liability, exemptions from laws, ordinances, and rules, which apply to the activity of officers, agents, or employees of any signatory public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same extent while engaged in the performance of any of their functions and duties under the provisions of the JPA.

XIII. TERMINATION OF JPA

This JPA may be terminated by either party upon ninety (30) days written notice delivered to the other.

XIV. CONTACT AND NOTICES

The parties may, from time to time, change their contact person and shall provide prompt notice of such change to the other party. Any notice required under this JPA shall be deemed given and delivered to, and received by, the receiving party three (3) days after deposit in the U.S. mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below:

Sierra County contact person name and mailing address:

Janet Porter-Carrejo,
Sierra County Manager
100 N. Date Street
T or C, NM 87901

Telephone No: (505) 894-6215
Facsimile No: (505) 894-9548

Truth or Consequences contact person name and mailing address:

Jaime R. Aguilera
City Manager
505 Sims Street
T or C, NM 87901

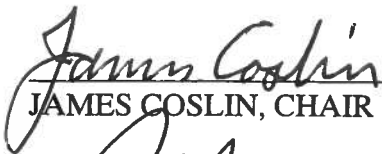
Telephone No: (505) 894-6673
Facsimile No: (505) 894-7767

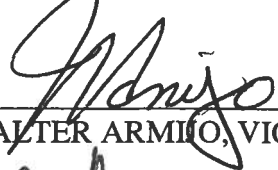
XV. SUBCONTRACTING

Each party is responsible for fulfillment of this JPA and shall not subcontract any of its responsibilities.

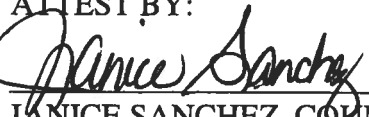
IN WITNESS WHEREOF, the parties have executed this Agreement which becomes effective as of the date of approval by the Department of Finance and Administration. **APPROVED, ADOPTED, AND PASSED** on this ____ day of _____, 2007.

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SIERRA


JAMES COSLIN, CHAIR


WALTER ARMILLO, VICE-CHAIR


GARY WHITEHEAD, MEMBER

ATTEST BY:

JANICE SANCHEZ, COUNTY CLERK

APPROVED, ADOPTED, AND PASSED on this 8th day of November, 2007.

CITY OF TRUTH OR CONSEQUENCES

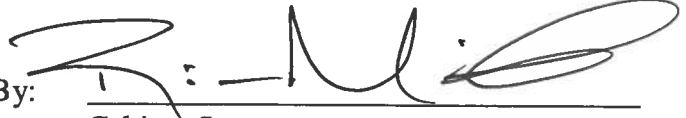

JAIME R. AGUILERA, CITY MANAGER

ATTEST BY:

MARY B. PENNER, CITY CLERK/TREASURER

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION

By: 
Cabinet Secretary

Date: 2/27/08
PK

RECEIVED

DEC 12 2007

AMENDMENT NUMBER ONE JOINT POWERS AGREEMENT
TO PROVIDE ANIMAL CONTROL WITHIN THE BOUNDARIES OF THE COUNTY OF
SIERRA
BETWEEN
THE COUNTY OF SIERRA
AND
THE CITY OF TRUTH OR CONSEQUENCES

County of Sierra
RECEIVED

MAY 21 2008

THIS AMENDMENT NUMBER ONE is entered into by and between Sierra County ("County") and the City of Truth or Consequences ("City") referred to collectively as the ("parties").

County of Sierra

Pursuant to a requirement by DFA, **Section XVII. SURPLUS FUNDS** is hereby added to the original agreement. Although the original document specifically states that payment for services shall occur only after the service is rendered, DFA has demanded that the document contain the following language:

Section XVII. SURPLUS FUNDS

This agreement does not contemplate the advancement of funds from the County to the City, therefore the document does not contain a clause specifying that excess funds will be returned to the County.

IN WITNESS WHEREOF, the parties have executed this Agreement which becomes effective as of the date of approval by the New Mexico Department of Finance and Administration.

PASSED, APPROVED, and ADOPTED by the governing body of the County of Sierra during its regular meeting on the 12th, day of December, 2007.



JAMES COSLIN, CHAIR
SIERRA COUNTY COMMISSION



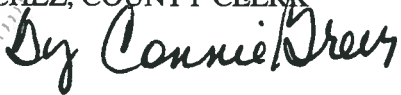
WALTER C. ARMIJO, VICE-CHAIR
SIERRA COUNTY COMMISSION



GARY WHITEHEAD, MEMBER
SIERRA COUNTY COMMISSION

ATTEST BY:


JANICE SANCHEZ, COUNTY CLERK





APPROVED by the CITY OF TRUTH OR CONSEQUENCES on the 27th, day of November, 2007.



[Signature]
JAIMER. AGUILERA, CITY MANAGER
CITY OF TRUTH OR CONSEQUENCES

Mary B. Penner
MARY B. PENNER, CITY CLERK/TREASURER
CITY OF TRUTH OR CONSEQUENCES

APPROVED:

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

[Signature]
CABINET SECRETARY *PK*

2/27/08
DATE