

97
City of Las Cruces[®]
 PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 7 Ordinance/Resolution# 13-056

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of October 15, 2012
 (Adoption Date)

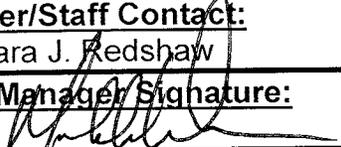
Please check box that applies to this item:

QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPROVING AN AMENDED JOINT POWERS AGREEMENT BETWEEN THE CITY OF LAS CRUCES, DOÑA ANA COUNTY, TOWN OF MESILLA, VILLAGE OF HATCH, AND THE CITY OF SUNLAND PARK, AND TO ADD THE CITY OF ANTHONY AS A MEMBER OF THE MESILLA VALLEY REGIONAL DISPATCH AUTHORITY.

PURPOSE(S) OF ACTION:

To approve an amendment to the Joint Powers Agreement Governing the Mesilla Valley Regional Dispatch Authority ("MVRDA").

COUNCIL DISTRICT: N/A		
<u>Drafter/Staff Contact:</u> Barbara J. Redshaw	<u>Department/Section:</u> City Attorney/Legal	<u>Phone:</u> (575) 541-2128
<u>City Manager Signature:</u> 		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

In 2006 the City Council approved a Joint Powers Agreement ("JPA") between the City of Las Cruces ("City"), Doña Ana County ("DAC"), Town of Mesilla ("Mesilla"), Village of Hatch ("Hatch") and City of Sunland Park ("Sunland") as members of a joint communications center known as MVRDA.

The JPA has been amended to add the City of Anthony ("Anthony") as a new member of MVRDA. Each party has reviewed the amended JPA and has agreed to make an annual financial contribution to operate MRVDA as outlined in the amended JPA.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A". Agreement Amending the MVRDA Joint Powers Agreement which adds City of Anthony as a member of MVRDA.
3. Attachment "1". Legislative comparison between current JPA and amended JPA.
4. Attachment "2". Current JPA, approved in 2006.

(Continue on additional sheets as required)

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
	<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)	
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue?	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY ____.
	No	<input checked="" type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Amended Joint Powers Agreement and approve the addition of the City of Anthony, New Mexico as a member of MVRDA.
2. Vote "No"; this will not approve the Amended Joint Powers Agreement and the City of Anthony, New Mexico will not be approved as a member of MVRDA.
3. Vote to "Amend"; this would allow Council to propose modifications to the JPA as it deems appropriate, which modifications would have to be approved by the Department of Finance, and the current members of MVRDA.
4. Vote to "Table"; this would allow Council to postpone consideration of the resolution to approve the Amended Joint Powers Agreement direct staff accordingly.

(Continue on additional sheets as required)

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A.

(Continue on additional sheets as required)

RESOLUTION NO. 13-056

A RESOLUTION APPROVING AN AMENDED JOINT POWERS AGREEMENT BETWEEN THE CITY OF LAS CRUCES, DOÑA ANA COUNTY, TOWN OF MESILLA, VILLAGE OF HATCH, AND THE CITY OF SUNLAND PARK, AND TO ADD THE CITY OF ANTHONY AS A MEMBER OF THE MESILLA VALLEY REGIONAL DISPATCH AUTHORITY.

The City Council is informed that:

WHEREAS, in 2006 the City Council approved a Joint Powers Agreement (“JPA”) between the City of Las Cruces (“City”), Doña Ana County (“DAC”), Town of Mesilla (“Mesilla”), Village of Hatch (“Hatch”) and City of Sunland Park (“Sunland”) as members of MVRDA, a joint communications center; and

WHEREAS, the JPA has been amended to add the City of Anthony, a municipal corporation (“Anthony”), as a member of MVRDA; and

WHEREAS, each party has reviewed the amended JPA governing MVRDA and has agreed to make an annual financial contribution to operate MRVDA as outlined in the JPA.

NOW THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the amendment to the Mesilla Valley Regional Dispatch Authority JPA, attached as Exhibit “A”, which adds the City of Anthony as a new member, is hereby approved.

(II)

THAT City staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

VOTE:

Mayor Miyagishima: _____

Councillor Silva: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Small: _____

Councillor Sorg: _____

Councillor Thomas: _____

APPROVED AS TO FORM:



City Attorney

**City of Las Cruces – Dona Ana County – Town of Mesilla – Village of Hatch
City of Sunland Park – City of Anthony
Joint Powers Agreement
Governing the Mesilla Valley Regional Dispatch Authority**

THIS AMENDED JOINT POWERS AGREEMENT is entered into by and between the City of Las Cruces, a New Mexico municipal corporation (“CLC”), Dona Ana County, a political subdivision of the State of New Mexico (“DAC”), the Town of Mesilla, a municipal corporation (“Mesilla”), the Village of Hatch, a municipal corporation (“Hatch”), the City of Sunland Park, a municipal corporation (“Sunland”), and the City of Anthony, a municipal corporation (“Anthony”).

RECITALS

1. It is in the best interests of CLC, DAC, Mesilla, Hatch, Sunland, and Anthony to combine public safety communications dispatch functions in order to provide more efficient and responsive communications; and
2. Pursuant to the Joint Powers Agreements Act, NMSA 1978, Sections 11-1-1 through 11-1-7, CLC, DAC, Mesilla, Hatch, Sunland and Anthony are explicitly authorized to enter into a Joint Powers Agreement (hereinafter “JPA”) to establish and govern a separate agency to possess and exercise common powers of the parties, which agency shall be a joint communications center known as the Mesilla Valley Regional Dispatch Authority (MVRDA); and
3. The parties by this Amended JPA and the previous JPAs concerning MVRDA have consolidated their E911 call answering and radio dispatch functions within one consolidated public safety answering point within Doña Ana County pursuant to NMSA 1978, Section 63-9D-1, et seq.
4. Each party has agreed to make annual financial contributions as set forth in this agreement to operate MVRDA;

NOW THEREFORE, in consideration of the mutual benefits that will accrue to CLC, DAC, Mesilla, Hatch, Sunland, and Anthony, and the residents thereof, the parties agree as follows:

I. PURPOSE OF MVRDA. The Mesilla Valley Regional Dispatch Authority was and is established to operate a combined communications center to dispatch and coordinate the emergency response departments of CLC, DAC, Mesilla, Hatch, Sunland and Anthony. MVRDA shall provide services for the Law Enforcement providers for each party, being the Las Cruces Police Department, the Dona Ana County Sheriffs Department, the Mesilla Marshals Office, the Hatch Police Department, the Sunland Park Police Department and the Anthony Police Department. MVRDA shall provide services for the Fire Service providers for each party, being the Las Cruces Fire Department, the combined Doña Ana County Fire Districts, the Mesilla Fire Department, the Hatch Fire Department, the Sunland Park Fire Department and the Anthony Fire Department. MVRDA shall also provide dispatch for Emergency Medical Services providers for CLC, DAC, Mesilla, Hatch, Sunland and Anthony. Communications services to be provided for each party through MVRDA shall include any independent contractor retained by any party to provide emergency response services.

MVRDA JPA

II. THE MVRDA BOARD. MVRDA shall be governed by a Board of Directors (hereinafter “the MVRDA Board” or the “Board”).

A. Membership. The MVRDA Board shall have thirteen (13) voting members. The voting members will be designated yearly in January.

1. One (1) member and a designated alternate member shall be an elected official of CLC, appointed by the City Council.
2. One (1) member and a designated alternate member shall be a member of the DAC Board of Commissioners or management level members of the County staff, appointed by the Commission.
3. The CLC Manager shall be a member or shall designate one (1) delegate member; the CLC Manager shall also designate an alternate member.
4. The DAC Manager shall be a member or shall appoint one (1) delegate member; the DAC Manager shall also designate an alternate member.
5. The CLC Police Chief shall be a member, and shall designate an alternate member.
6. The DAC Sheriff shall be a member, and shall designate an alternate member.
7. The CLC Fire Chief shall be a member, and shall designate an alternate member.
8. The DAC Fire Marshal shall be a member, and shall designate an alternate member.
9. One (1) member and a designated alternate shall be appointed by the Board of Trustees for the Town of Mesilla.
10. One (1) member and a designated alternate shall be appointed by the Board of Trustees for the Village of Hatch.
11. One (1) member and a designated alternate member shall be appointed by the City Council for the City of Sunland Park.
12. One (1) member and a designated alternate shall be appointed by the City Council for the City of Anthony.
13. One (1) member and a designated alternate member shall be appointed by a majority vote of the MVRDA Board.

B. Powers and Duties. The MVRDA Board shall oversee all aspects of the operation of MVRDA consistent with the requirements and limitations herein.

1. Conduct of Business.

a. Meetings. All meetings of the MVRDA Board shall be held in compliance with the New Mexico Open Meetings Act. The Board shall meet on at least a quarterly basis, and shall elect at least a Chairperson and a Vice-Chairperson and issue a statement of reasonable notice in

MVRDA JPA

compliance with the New Mexico Open Meetings Act, on at least an annual basis.

b. Quorum. A majority of the Board, including any designated alternate member attending in the absence of a member, shall constitute a quorum and shall have the authority to conduct the business of the Board.

c. Voting. Designated alternate members shall be entitled to vote only in the absence of the primary named member; a representative of the member who is not the designated alternate shall be allowed to participate in debate in the absence of the member and designated alternate, but shall not be entitled to vote as a member of the MVRDA Board.

d. By-laws. The Board shall enact By-laws, which must be approved by a 2/3 majority of a quorum of the Board after all Board members have received thirty (30) days notice of the time and place of the meeting, and that the By-laws will be considered for adoption or amendment. The MVRDA Board shall have the authority to replace the Chair or Vice-Chair upon a 2/3 vote of the quorum present. The By-laws shall address election of officers, and otherwise regulate the conduct of business of the Board, and may include any provisions not inconsistent with this JPA and the Open Meetings Act.

2. Financial Management. The MVRDA Board shall assure proper management and control over the finances and property belonging to MVRDA.

a. Annual Submittals. On an annual basis, the MVRDA Board shall approve and submit the following to each party to this JPA:

- i. a financial statement audit performed by an independent certified public accountant selected by the fiscal agent, setting forth information including but not limited to revenues received and their sources, expenditures, and obligations incurred and unpaid during the reporting period;
- ii. an inventory of equipment, real and personal property held or owned by MVRDA; and
- iii. a recommended budget for the following fiscal year, which shall be submitted prior to the earliest budget request deadline set by either CLC or DAC for internal department budget proposals.

MVRDA JPA

b. Insurance. The MVRDA Board shall assure that all appropriate insurance coverage is procured for the activities of MVRDA, and the MVRDA Board (where appropriate), including but not limited to: Workman's Compensation Insurance, General Liability Insurance, Unemployment Insurance and Property Insurance. All coverages shall comply with statutory requirements to insure all liabilities under the New Mexico Tort Claims Act, and shall also include coverage for civil rights claims.

c. Contracts. The MVRDA Board shall have the authority to authorize the MVRDA Director to sign contracts with public or private entities consistent with the actions and policies of the MVRDA Board, the approved budget for MVRDA, and applicable fiscal agent Procurement Code requirements.

d. Emergency Medical Direction. The MVRDA Board shall ensure that emergency medical services direction is available for MVRDA at all times.

3. Operations Management. The MVRDA Board shall establish rules and regulations for the conduct of business by MVRDA, including but not limited to promulgation of administrative personnel regulations. The Board shall approve and set the compensation plan for all MVRDA personnel, who shall be employees of MVRDA and shall be eligible for membership in P.E.R.A. (Public Employees Retirement Association), consistent with P.E.R.A. regulations. MVRDA personnel shall be subject to all personnel regulations adopted by the MVRDA Board.

a. Supervision of the MVRDA Director. The MVRDA Board shall hire and supervise a Director of MVRDA, who shall be responsible for the day to day operations of MVRDA, and shall attend all MVRDA Board meetings whenever possible, and shall send an alternate when unable to attend. Members of the Board shall not be involved in the day-to-day operations of MVRDA except as outlined herein.

b. Duties of the Director. The Director of MVRDA shall be in charge of the day-to-day operations of MVRDA. Consistent with decisions, policies, and direction of the MVRDA Board, the Director's administrative and supervisory responsibilities shall include but not be limited to:

- i. planning, directing and controlling the operations of MVRDA.
- ii. hiring, training, and supervising all MVRDA personnel;
- iii. assigning and scheduling personnel;
- iv. disciplining all personnel, including firing personnel;

MVRDA JPA

- v. maintaining a liaison with all agencies utilizing the communications system;
- vi. reporting to the Board on the operations of MVRDA.
- vii. seeking out additional sources of revenue for MVRDA, and administering any grants accepted by the MVRDA Board.

c. MVRDA Chair as Liaison. The Chairperson of the MVRDA Board shall be the primary liaison between the MVRDA Board and the Director of MVRDA, and shall have the authority to give direction to the MVRDA Director when needed prior to the next regularly scheduled meeting of the MVRDA Board. The Chairperson and the Director shall have a duty to report to the Board at its next meeting regarding any significant issues addressed by the Chair and the Director. The Vice-Chairperson shall have such authority and duty if the Chairperson is not available when needed by the MVRDA Director.

d. Board Authority. The MVRDA Board shall have the authority to override any policy or other decisions made by the MVRDA Director, regardless of any initial direction which may have been provided by the Chairperson or Vice-Chairperson.

III. SUBCOMMITTEES. The MVRDA Board shall have the right to create subcommittees as needed from time to time to carry out the duties of the MVRDA Board, for whatever time period deemed appropriate by the Board. Any subcommittee created by the MVRDA Board shall have the right to enact its own By-laws, unless the MVRDA Board specifically provides otherwise.

IV. FINANCIAL CONTRIBUTIONS. The financial contribution amounts required from the parties under this JPA shall be in addition to in-kind services to be provided under this JPA, such as fiscal agent services to be provided by CLC, and facilities services to be provided by DAC, or any other in-kind services or contributions the parties may choose to provide.

A. CLC and DAC

1. Contributions. CLC shall contribute Fifty-Three Percent (53%) and DAC shall contribute Forty-Seven Percent (47%) of the total operating budget of MVRDA for each fiscal year, excluding amounts covered by other revenue sources, and the contributions from Hatch, Mesilla, and Sunland.

2. Budget Procedures. CLC and DAC shall consider the budget recommended by the MVRDA Board, and shall notify the Director of MVRDA no later than May 31st if the party has not included its share of the MVRDA budget proposed by the

MVRDA JPA

Board in the preliminary budget submitted by that party to the Department of Finance and Administration for the upcoming fiscal year. Neither CLC nor DAC shall refuse to include its share of the budget proposed by MVRDA in its preliminary and final budgets if the proposed budget is equal to or less than the budget for MVRDA for the previous fiscal year, unless the governing bodies of both CLC and DAC agree to so reduce the MVRDA budget.

B. Mesilla, Hatch, Sunland, and Anthony.

1. Contributions. The amount of contributions to the MVRDA budget for Mesilla, Hatch, Sunland, and Anthony shall be determined by the MVRDA Board on an annual basis as part of the process for a budget proposal to CLC and DAC. The contributions shall be based on the number of calls expected for responses within Mesilla, Hatch, Sunland and Anthony, and not based upon a percentage of the MVRDA budget.

2. Assessment Procedures. On an annual basis, the MVRDA Board shall review the number of incoming calls for emergency responses and the number of calls dispatched within the municipal limits of Mesilla, Hatch, Sunland and Anthony during the prior calendar year, the number of calls reasonably anticipated for the upcoming calendar year, the operating costs for MVRDA for the prior fiscal year, and the anticipated operating costs for MVRDA for the upcoming fiscal year, and shall establish the amount to be paid by Mesilla, Hatch, Sunland and Anthony for the upcoming fiscal year based upon the approximate actual cost per call incurred by MVRDA to provide individual services to Mesilla, Hatch, Sunland and Anthony within their respective municipal limits. Operating costs utilized to determine the actual per cost call shall not include any estimate of the value of in-kind services provided by CLC and DAC or by any of the other parties under this JPA. Mesilla, Hatch, Sunland and Anthony shall pay the amounts established by the MVRDA Board regardless of whether the actual responses within Mesilla, within Hatch, and within Sunland are more or less than was anticipated; upon request from Mesilla or Hatch or Sunland or Anthony, the MVRDA Board shall reduce the amount payable by Mesilla, Hatch, Sunland and Anthony if actual expenses for the operation of MVRDA during the fiscal year are substantially less than were anticipated when the amounts due were established.

C. Services for Other Entities. Any other potential contributor will be charged an amount as established by a pay per call formula determined by the MVRDA Board in considering the contract to provide communications services. The contractual amount shall be calculated based upon the volume of calls of the original parties to this JPA and

MVRDA JPA

the current approved budget. Any contract for services to an entity that is not a party to this JPA shall be limited to the current fiscal year, and the amount shall be reviewed and revised if appropriate based upon the MVRDA budget for the following fiscal year prior to renewal.

D. Payment of Contributions. CLC, DAC, Mesilla, Hatch, Sunland and Anthony will pay 22% of their respective requested annual contributions the first day of the fiscal year each year. The remaining balance for each respective party will be paid by each respective party in eleven (11) equal payments due on the 15th day of each month beginning on August 15th of each year. Any other future financial contributor to MVRDA approved by the MVRDA Board pursuant to this JPA shall pay on a monthly basis within thirty (30) days of submission of an invoice from MVRDA based upon calls dispatched by MVRDA for the contracted entity.

E. Late Payment of Contributions. Contribution payments made thirty or more days after the due date will be subject to a late fee. The late fee will be determined by the MVRDA Board annually based on the prevailing late fee in use by the fiscal agent.

F. Use of Excess Funds. Any excess funds at the end of the fiscal year shall be allocated as determined by the MVRDA Board.

V. FISCAL AGENT. The CLC shall operate as the fiscal agent for MVRDA. The duties of the fiscal agent shall be as follows.

A. Financial Operations.

1. The fiscal agent shall bill and collect all revenues from the parties of this agreement for and on behalf of MVRDA at the precise times and in the amounts as determined through the procedures in Article IV herein.
2. The fiscal agent will maintain separate accounting designated specifically for MVRDA revenue and operational accounts and related budgets.
3. The fiscal agent shall make all revenue or budget transfers and all disbursements for MVRDA, as directed by the MVRDA Director or his/her designee consistent with authority granted by the MVRDA Board.
4. The fiscal agent may charge monthly interest, not to exceed the highest rate allowed by law, that accrues when MVRDA operations result in a negative cash position based upon completely updated transaction processing.
5. The fiscal agent shall not allow any department of the fiscal agent to charge against any account unless the department submits an invoice with supporting documentation to be approved by the MVRDA Director or Board, consistent with policies and procedures established by the MVRDA Board and the MVRDA Director and the CLC Procurement Code.

MVRDA JPA

6. The fiscal agent shall be responsible for preparing financial reports for MVRDA on an annual basis and as may be requested by the MVRDA Board from time to time, and for presenting the reports to the MVRDA Board for review and approval.
7. The fiscal agent shall strictly account for all receipts and disbursements made pursuant to this JPA, in accordance with the CLC Procurement Code and all other applicable laws and regulations.
8. The fiscal agent will provide procurement services for MVRDA in accordance with the CLC Procurement Code, consistent with New Mexico law.
9. The fiscal agent shall account for all transactions on behalf of MVRDA, including those related to fixed assets, to provide for internal controls relating to the acquisition and disposal of fixed assets and proper recording of all liabilities.
10. The fiscal agent shall provide all necessary accounting records sufficient to facilitate a "stand alone" financial statement. The MVRDA financial statements shall be audited by an independent CPA selected by CLC and all applicable reports shall be included in the annual audited financial statements referred to in II.B.2.a(i) "Annual Submittals". Such audits shall be performed in accordance with Governmental Audit Standards. The audit may be performed in conjunction with the CLC annual audit as required by Office of the State Auditor.

B. Personnel Administration.

1. The fiscal agent will house all personnel files of MVRDA employees, and MVRDA staff, and shall be responsible for providing updated personnel documentation to the City of Las Cruces to maintain personnel files.
2. The fiscal agent will provide human resource in-processing and maintenance for MVRDA employees' payroll system, based upon the payroll data provided by the MVRDA Director.

C. Limitations on Duties. The fiscal agent shall only be required to provide the services described herein, which shall not include:

1. training services;
2. benefits, programs or services specifically created for the usage of the fiscal agent's employees, other than administration of benefits provided through MVRDA's personnel policies;
3. legal services;
4. risk management;
5. Employee Assistance Program; or
6. Maintenance services not critical to the operations of MVRDA.

MVRDA JPA

VI. MVRDA FACILITIES. DAC shall continue to provide space, utilities, and janitorial services for MVRDA, consistent with DAC policies and procedures for providing space and services for DAC entities.

VII. TERM OF AGREEMENT. This JPA shall be perpetual unless terminated as hereinafter provided.

A. Termination. If CLC or DAC desires to terminate participation in this JPA, the party may do so only by providing written notice to the other parties at least one (1) year prior to the date of the proposed termination. If Mesilla or Hatch or Sunland desires to terminate participation in this JPA, the entity may do so by providing ninety (90) days written notice to the other parties. If Mesilla or Hatch or Sunland terminate participation in this JPA, the terms of this JPA shall continue in force as between the remaining parties. If CLC or DAC terminates participation in this JPA, the operations of MVRDA shall be discontinued upon the expiration of the termination period, unless a new JPA has been approved by the remaining parties and DFA prior to that time.

B. Ownership and Distribution of Property. All personal property previously owned by CLC, DAC, Mesilla, Hatch, Sunland or Anthony for use in their individual dispatch centers and transferred to the possession of MVRDA shall become the personal property of MVRDA. MVRDA shall prepare a detailed inventory of all such equipment showing former ownership. This inventory shall be reviewed and approved by CLC, DAC, Mesilla, Hatch, Sunland and Anthony. MVRDA shall be responsible for inventorying this property with its own identification or property number and insuring said property to the extent necessary. Upon termination of this JPA, all real or personal property contributed by the parties shall be returned to the respective party that contributed such property and any all surplus real or personal property or any surplus money accrued by MVRDA pursuant to this JPA shall be returned to CLC, DAC, Hatch, Mesilla, Sunland and Anthony, in proportion to the most recent budgetary contribution percentages applicable herein.

VIII. SEVERABILITY OF PROVISIONS. If any provision of this JPA is held invalid, the remainder of this JPA shall not be affected thereby and such remainder would constitute the JPA and MVRDA would continue to operate under the remaining provisions, unless the provision held invalid was such as to make the fulfillment of the purpose of this JPA impossible or impracticable.

IX. TORT CLAIMS ACT. By entering into this Agreement, CLC, DAC, Mesilla, Hatch, Sunland and Anthony and their "public employees" as defined in the New Mexico Tort Claims Act, NMSA 1978§§, " 41-4-1 et seq., do not waive sovereign immunity, or any defense or limitation of liability pursuant to law. No provision in this JPA modifies or waives any provision of the New Mexico Tort Claims Act.

MVRDA JPA

X. EFFECTIVE DATE AND AMENDMENTS. This Agreement shall not be effective until approved by the Board of Commissioners for Dona Ana County, the City Council for the City of Las Cruces, the Board of Trustees for the Town of Mesilla, the Board of Trustees for the Village of Hatch, the City Council for the City of Sunland Park, the City Council for the City of Anthony and the Department of Finance and Administration of the State of New Mexico (DFA). This Agreement cannot be amended except in writing signed by all of the parties to this JPA, and approved by DFA.

XI. EXECUTION. This JPA shall be executed in eight (8) originals.

XII. ENTIRE AGREEMENT AND REPEAL. This agreement contains the entire understanding of the parties and no oral promise or agreement made by any party hereto is valid and binding unless incorporated herein. Any and all agreements made by any of the parties prior to this JPA relating to MVRDA be and the same are hereby repealed and held for naught.

XIII. LIABILITY PROVISION. No party to this JPA shall be responsible for liability incurred as a result of any other party's acts or omissions in connection with this JPA. Any liability incurred in connection with this JPA is subject to the immunities and limitations of the New Mexico Tort Claims Act. Each party shall be solely responsible for any liability as a result of its own willful acts, gross negligence, or negligence, or that of its officers, directors, agents, employees, servants, representatives, consultants, or contractors, subject to the immunities and limitations of the New Mexico Tort Claims Act.

CITY OF LAS CRUCES

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City of Las Cruces on the _____ day of _____, 2012.

Ken Miyagishima, Mayor

Attest: City Clerk

APPROVED AS TO FORM: 
City Attorney

MVRDA JPA

DOÑA ANA COUNTY

THIS JOINT POWERS AGREEMENT was approved by the Board of Commissioners of Doña Ana County on the ____ day of _____, 2012.

Karen G. Perez, Chairman

Attest: County Clerk

APPROVED AS TO FORM: _____
County Attorney

MVRDA JPA

TOWN OF MESILLA

THIS JOINT POWERS AGREEMENT was approved by the Board of Trustees of the Town of Mesilla on the ____ day of _____, 2012.

Nora L. Barraza, Mayor

Attest: Town Clerk

APPROVED AS TO FORM: _____
Town Attorney

MVRDA JPA

VILLAGE OF HATCH

THIS JOINT POWERS AGREEMENT was approved by the Board of Trustees of the Village of Hatch on the _____ day of _____, 2012.

Judd Nordyke, Mayor

Attest: Village Clerk

APPROVED AS TO FORM: _____
Village Attorney

MVRDA JPA

CITY OF SUNLAND PARK

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City of Sunland Park on the _____ day of _____, 2012.

Javier Perea, Mayor

Attest: City Clerk

APPROVED AS TO FORM: _____
City Attorney

MVRDA JPA

CITY OF ANTHONY

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City of Anthony on the ____ day of _____, 2012.

Arnulfo Castaneda, Mayor

Attest: City Clerk

APPROVED AS TO FORM: _____
City Attorney

MVRDA JPA

APPROVED: DEPARTMENT OF FINANCE AND ADMINISTRATION

By: _____

Date: _____

**City of Las Cruces – Dona Ana County – Town of Mesilla – Village of Hatch
City of Sunland Park – City of Anthony
Joint Powers Agreement
Governing the Mesilla Valley Regional Dispatch Authority**

THIS AMENDED JOINT POWERS AGREEMENT is entered into by and between the City of Las Cruces, a New Mexico municipal corporation ("CLC"), Dona Ana County, a political subdivision of the State of New Mexico ("DAC"), the Town of Mesilla, a municipal corporation ("Mesilla"), the Village of Hatch, a municipal corporation ("Hatch"), ~~and~~ the City of Sunland Park, a municipal corporation ("Sunland"), and the City of Anthony, a municipal corporation ("Anthony").

RECITALS

1. It is in the best interests of CLC, DAC, Mesilla, Hatch, ~~and~~ Sunland, and Anthony to combine public safety communications dispatch functions in order to provide more efficient and responsive communications; and
2. Pursuant to the Joint Powers Agreements Act, NMSA 1978, Sections 11-1-1 through 11-1-7, CLC, DAC, Mesilla, Hatch ~~and~~, Sunland and Anthony are explicitly authorized to enter into a Joint Powers Agreement (hereinafter "JPA") to establish and govern a separate agency to possess and exercise common powers of the parties, which agency shall be a joint communications center known as the Mesilla Valley Regional Dispatch Authority (MVRDA); and
3. The parties by this Amended JPA and the previous JPAs concerning MVRDA have consolidated their E911 call answering and radio dispatch functions within one consolidated public safety answering point within Doña Ana County pursuant to NMSA 1978, Section 63-9D-1, et seq.
4. Each party has agreed to make annual financial contributions as set forth in this agreement to operate ~~MRVDA~~ MVRDA;

NOW THEREFORE, in consideration of the mutual benefits that will accrue to CLC, DAC, Mesilla, Hatch, ~~and~~ Sunland, and Anthony, and the residents thereof, the parties agree as follows:

I. PURPOSE OF MVRDA. The Mesilla Valley Regional Dispatch Authority was and is established to operate a combined communications center to dispatch and coordinate the emergency response departments of CLC, DAC, Mesilla, Hatch ~~and~~, Sunland and Anthony. MVRDA shall provide services for the Law Enforcement providers for each party, being the Las Cruces Police Department, the Dona Ana County Sheriffs Department, the Mesilla Marshals Office, the Hatch Police Department, ~~and~~ the Sunland Park Police Department and the Anthony Police Department. MVRDA shall provide services for the Fire Service providers for each party, being the Las Cruces Fire Department, the combined Doña Ana County Fire Districts, the Mesilla Fire Department, the Hatch Fire Department, ~~and~~ the Sunland Park Fire Department and the Anthony Fire Department. MVRDA shall also provide dispatch for Emergency Medical Services providers for CLC, DAC, Mesilla, Hatch, ~~and~~ Sunland and Anthony. Communications services to be provided for each party through MVRDA shall include any independent contractor retained by any party to provide emergency response services.

MVRDA JPA

II. THE MVRDA BOARD. MVRDA shall be governed by a Board of Directors (hereinafter “the MVRDA Board” or the “Board”).

A. Membership. The MVRDA Board shall have ~~twelve (12)~~thirteen (13) voting members. The voting members will be designated yearly in January.

1. One (1) member and a designated alternate member shall be an elected official of CLC, appointed by the City Council.
2. One (1) member and a designated alternate member shall be a member of the DAC Board of Commissioners or management level members of the County staff, appointed by the Commission.
3. The CLC Manager shall be a member or shall designate one (1) delegate member; the CLC Manager shall also designate an alternate member.
4. The DAC Manager shall be a member or shall appoint one (1) delegate member; the DAC Manager shall also designate an alternate member.
5. The CLC Police Chief shall be a member, and shall designate an alternate member.
6. The DAC Sheriff shall be a member, and shall designate an alternate member.
7. The CLC Fire Chief shall be a member, and shall designate an alternate member.
8. The DAC Fire Marshal shall be a member, and shall designate an alternate member.
9. One (1) member and a designated alternate shall be appointed by the Board of Trustees for the Town of Mesilla.
10. One (1) member and a designated alternate shall be appointed by the Board of Trustees for the Village of Hatch.
11. One (1) member and a designated alternate member shall be ~~an elected official of the City of Sunland Park,~~ appointed by the City Council— for the City of Sunland Park.
- ~~12.~~12. One (1) member and a designated alternate shall be appointed by the City Council for the City of Anthony.
13. One (1) member and a designated alternate member shall be appointed by a majority vote of the MVRDA Board.

B. Powers and Duties. The MVRDA Board shall oversee all aspects of the operation of MVRDA consistent with the requirements and limitations herein.

1. Conduct of Business.

a. Meetings. All meetings of the MVRDA Board shall be held in compliance with the New Mexico Open Meetings Act. The Board shall meet on at least a quarterly basis, and shall elect at least a Chairperson and a Vice-Chairperson and issue a statement of reasonable notice in

MVRDA JPA

compliance with the New Mexico Open Meetings Act, on at least an annual basis.

b. Quorum. A majority of the Board, including any designated alternate member attending in the absence of a member, shall constitute a quorum and shall have the authority to conduct the business of the Board.

c. Voting. Designated alternate members shall be entitled to vote only in the absence of the primary named member; a representative of the member who is not the designated alternate shall be allowed to participate in debate in the absence of the member and designated alternate, but shall not be entitled to vote as a member of the MVRDA Board.

d. By-laws. The Board shall enact By-laws, which must be approved by a 2/3 majority of a quorum of the Board after all Board members have received thirty (30) days notice of the time and place of the meeting, and that the By-laws will be considered for adoption or amendment. The MVRDA Board shall have the authority to replace the Chair or Vice-Chair upon a 2/3 vote of the quorum present. The By-laws shall address election of officers, and otherwise regulate the conduct of business of the Board, and may include any provisions not inconsistent with this JPA and the Open Meetings Act.

2. Financial Management. The MVRDA Board shall assure proper management and control over the finances and property belonging to MVRDA.

a. Annual Submittals. On an annual basis, the MVRDA Board shall approve and submit the following to each party to this JPA:

- i. a financial statement audit performed by an independent certified public accountant selected by the fiscal agent, setting forth information including but not limited to revenues received and their sources, expenditures, and obligations incurred and unpaid during the reporting period;
- ii. an inventory of equipment, real and personal property held or owned by MVRDA; and
- iii. a recommended budget for the following fiscal year, which shall be submitted prior to the earliest budget request deadline set by either CLC or DAC for internal department budget proposals.

MVRDA JPA

b. Insurance. The MVRDA Board shall assure that all appropriate insurance coverage is procured for the activities of MVRDA, and the MVRDA Board (where appropriate), including but not limited to: Workman's Compensation Insurance, General Liability Insurance, Unemployment Insurance and Property Insurance. All coverages shall comply with statutory requirements to insure all liabilities under the New Mexico Tort Claims Act, and shall also include coverage for civil rights claims.

c. Contracts. The MVRDA Board shall have the authority to authorize the MVRDA Director to sign contracts with public or private entities consistent with the actions and policies of the MVRDA Board, the approved budget for MVRDA, and applicable fiscal agent Procurement Code requirements.

d. Emergency Medical Direction. The MVRDA Board shall ensure that emergency medical services direction is available for MVRDA at all times.

3. Operations Management. The MVRDA Board shall establish rules and regulations for the conduct of business by MVRDA, including but not limited to promulgation of administrative personnel regulations. The Board shall approve and set the compensation plan for all MVRDA personnel, who shall be employees of MVRDA and shall be eligible for membership in P.E.R.A. (Public Employees Retirement Association), consistent with P.E.R.A. regulations. MVRDA personnel shall be subject to all personnel regulations adopted by the MVRDA Board.

a. Supervision of the MVRDA Director. The MVRDA Board shall hire and supervise a Director of MVRDA, who shall be responsible for the day to day operations of MVRDA, and shall attend all MVRDA Board meetings whenever possible, and shall send an alternate when unable to attend. Members of the Board shall not be involved in the day-to-day operations of MVRDA except as outlined herein.

b. Duties of the Director. The Director of MVRDA shall be in charge of the day-to-day operations of MVRDA. Consistent with decisions, policies, and direction of the MVRDA Board, the Director's administrative and supervisory responsibilities shall include but not be limited to:

- i. planning, directing and controlling the operations of MVRDA.
- ii. hiring, training, and supervising all MVRDA personnel;
- iii. assigning and scheduling personnel;
- iv. disciplining all personnel, including firing personnel;

MVRDA JPA

- v. maintaining a liaison with all agencies utilizing the communications system;
- vi. reporting to the Board on the operations of MVRDA.
- vii. seeking out additional sources of revenue for MVRDA, and administering any grants accepted by the MVRDA Board.

c. MVRDA Chair as Liaison. The Chairperson of the MVRDA Board shall be the primary liaison between the MVRDA Board and the Director of MVRDA, and shall have the authority to give direction to the MVRDA Director when needed prior to the next regularly scheduled meeting of the MVRDA Board. The Chairperson and the Director shall have a duty to report to the Board at its next meeting regarding any significant issues addressed by the Chair and the Director. The Vice-Chairperson shall have such authority and duty if the Chairperson is not available when needed by the MVRDA Director.

d. Board Authority. The MVRDA Board shall have the authority to override any policy or other decisions made by the MVRDA Director, regardless of any initial direction which may have been provided by the Chairperson or Vice-Chairperson.

III. SUBCOMMITTEES. The MVRDA Board shall have the right to create subcommittees as needed from time to time to carry out the duties of the MVRDA Board, for whatever time period deemed appropriate by the Board. Any subcommittee created by the MVRDA Board shall have the right to enact its own By-laws, unless the MVRDA Board specifically provides otherwise.

IV. FINANCIAL CONTRIBUTIONS. The financial contribution amounts required from the parties under this JPA shall be in addition to in-kind services to be provided under this JPA, such as fiscal agent services to be provided by CLC, and facilities services to be provided by DAC, or any other in-kind services or contributions the parties may choose to provide.

A. CLC and DAC

1. Contributions. CLC shall contribute Fifty-Three Percent (53%) and DAC shall contribute Forty-Seven Percent (47%) of the total operating budget of MVRDA for each fiscal year, excluding amounts covered by other revenue sources, and the contributions from Hatch, Mesilla, and Sunland.

2. Budget Procedures. CLC and DAC shall consider the budget recommended by the MVRDA Board, and shall notify the Director of MVRDA no later than May 31st if the party has not included its share of the MVRDA budget proposed by the

MVRDA JPA

Board in the preliminary budget submitted by that party to the Department of Finance and Administration for the upcoming fiscal year. Neither CLC nor DAC shall refuse to include its share of the budget proposed by MVRDA in its preliminary and final budgets if the proposed budget is equal to or less than the budget for MVRDA for the previous fiscal year, unless the governing bodies of both CLC and DAC agree to so reduce the MVRDA budget.

B. Mesilla, Hatch, ~~and~~ Sunland, and Anthony.

1. Contributions. The amount of contributions to the MVRDA budget for Mesilla, Hatch, ~~and~~ Sunland, and Anthony shall be determined by the MVRDA Board on an annual basis as part of the process for a budget proposal to CLC and DAC. The contributions shall be based on the number of calls expected for responses within Mesilla, Hatch, ~~and~~ Sunland and Anthony, and not based upon a percentage of the MVRDA budget.

2. Assessment Procedures. On an annual basis, the MVRDA Board shall review the number of incoming calls for emergency responses and the number of calls dispatched within the municipal limits of Mesilla, Hatch, ~~and~~ Sunland and Anthony during the prior calendar year, the number of calls reasonably anticipated for the upcoming calendar year, the operating costs for MVRDA for the prior fiscal year, and the anticipated operating costs for MVRDA for the upcoming fiscal year, and shall establish the amount to be paid by Mesilla, Hatch ~~and~~ Sunland and Anthony for the upcoming fiscal year based upon the approximate actual cost per call incurred by MVRDA to provide individual services to Mesilla, Hatch ~~and~~ Sunland and Anthony within their respective municipal limits. Operating costs utilized to determine the actual per cost call shall not include any estimate of the value of in-kind services provided by CLC and DAC or by any of the other parties under this JPA. Mesilla, Hatch ~~and~~ Sunland and Anthony shall pay the amounts established by the MVRDA Board regardless of whether the actual responses within Mesilla, within Hatch, and within Sunland are more or less than was anticipated; upon request from Mesilla or Hatch or Sunland or Anthony, the MVRDA Board shall reduce the amount payable by Mesilla, Hatch ~~and~~ Sunland and Anthony if actual expenses for the operation of MVRDA during the fiscal year are substantially less than were anticipated when the amounts due were established.

C. Services for Other Entities. Any other potential contributor will be charged an amount as established by a pay per call formula determined by the MVRDA Board in considering the contract to provide communications services. The contractual amount shall be calculated based upon the volume of calls of the original parties to this JPA and

MVRDA JPA

the current approved budget. Any contract for services to an entity that is not a party to this JPA shall be limited to the current fiscal year, and the amount shall be reviewed and revised if appropriate based upon the MVRDA budget for the following fiscal year prior to renewal.

D. Payment of Contributions. CLC, DAC, Mesilla, Hatch, ~~and Sunland~~ and Anthony will pay 22% of their respective requested annual contributions the first day of the fiscal year each year. The remaining balance for each respective party will be paid by each respective party in eleven (11) equal payments due on the 15th day of each month beginning on August 15th of each year. Any other future financial contributor to MVRDA approved by the MVRDA Board pursuant to this JPA shall pay on a monthly basis within thirty (30) days of submission of an invoice from MVRDA based upon calls dispatched by MVRDA for the contracted entity.

E. Late Payment of Contributions. Contribution payments made thirty or more days after the due date will be subject to a late fee. The late fee will be determined by the MVRDA Board annually based on the prevailing late fee in use by the fiscal agent.

F. Use of Excess Funds. Any excess funds at the end of the fiscal year shall be allocated as determined by the MVRDA Board.

V. FISCAL AGENT. The CLC shall operate as the fiscal agent for MVRDA. The duties of the fiscal agent shall be as follows.

A. Financial Operations.

1. The fiscal agent shall bill and collect all revenues from the parties of this agreement for and on behalf of MVRDA at the precise times and in the amounts as determined through the procedures in Article IV herein.
2. The fiscal agent will maintain separate accounting designated specifically for MVRDA revenue and operational accounts and related budgets.
3. The fiscal agent shall make all revenue or budget transfers and all disbursements for MVRDA, as directed by the MVRDA Director or his/her designee consistent with authority granted by the MVRDA Board.
4. The fiscal agent may charge monthly interest, not to exceed the highest rate allowed by law, that accrues when MVRDA operations result in a negative cash position based upon completely updated transaction processing.
5. The fiscal agent shall not allow any department of the fiscal agent to charge against any account unless the department submits an invoice with supporting documentation to be approved by the MVRDA Director or Board, consistent with policies and procedures established by the MVRDA Board and the MVRDA Director and the CLC Procurement Code.

MVRDA JPA

6. The fiscal agent shall be responsible for preparing financial reports for MVRDA on an annual basis and as may be requested by the MVRDA Board from time to time, and for presenting the reports to the MVRDA Board for review and approval.
7. The fiscal agent shall strictly account for all receipts and disbursements made pursuant to this JPA, in accordance with the CLC Procurement Code and all other applicable laws and regulations.
8. The fiscal agent will provide procurement services for MVRDA in accordance with the CLC Procurement Code, consistent with New Mexico law.
9. The fiscal agent shall account for all transactions on behalf of MVRDA, including those related to fixed assets, to provide for internal controls relating to the acquisition and disposal of fixed assets and proper recording of all liabilities.
10. The fiscal agent shall provide all necessary accounting records sufficient to facilitate a "stand alone" financial statement. The MVRDA financial statements shall be audited by an independent CPA selected by CLC and all applicable reports shall be included in the annual audited financial statements referred to in II.B.2.a(i) "Annual Submittals". Such audits shall be performed in accordance with Governmental Audit Standards. The audit may be performed in conjunction with the CLC annual audit as required by Office of the State Auditor.

B. Personnel Administration.

1. The fiscal agent will house all personnel files of MVRDA employees, and MVRDA staff, and shall be responsible for providing updated personnel documentation to the City of Las Cruces to maintain personnel files.
2. The fiscal agent will provide human resource in-processing and maintenance for MVRDA employees' payroll system, based upon the payroll data provided by the MVRDA Director.

C. Limitations on Duties. The fiscal agent shall only be required to provide the services described herein, which shall not include:

1. training services;
2. benefits, programs or services specifically created for the usage of the fiscal agent's employees, other than administration of benefits provided through MVRDA's personnel policies;
3. legal services;
4. risk management;
5. Employee Assistance Program; or
6. Maintenance services not critical to the operations of MVRDA.

MVRDA JPA

VI. MVRDA FACILITIES. DAC shall continue to provide space, utilities, and janitorial services for MVRDA, consistent with DAC policies and procedures for providing space and services for DAC entities.

VII. TERM OF AGREEMENT. This JPA shall be perpetual unless terminated as hereinafter provided.

A. Termination. If CLC or DAC desires to terminate participation in this JPA, the party may do so only by providing written notice to the other parties at least one (1) year prior to the date of the proposed termination. If Mesilla or Hatch or Sunland desires to terminate participation in this JPA, the entity may do so by providing ninety (90) days written notice to the other parties. If Mesilla or Hatch or Sunland terminate participation in this JPA, the terms of this JPA shall continue in force as between the remaining parties. If CLC or DAC terminates participation in this JPA, the operations of MVRDA shall be discontinued upon the expiration of the termination period, unless a new JPA has been approved by the remaining parties and DFA prior to that time.

B. Ownership and Distribution of Property. All personal property previously owned by CLC, DAC, Mesilla, Hatch ~~or~~, Sunland or Anthony for use in their individual dispatch centers and transferred to the possession of MVRDA shall become the personal property of MVRDA. MVRDA shall prepare a detailed inventory of all such equipment showing former ownership. This inventory shall be reviewed and approved by CLC, DAC, Mesilla, Hatch ~~and~~, Sunland and Anthony. MVRDA shall be responsible for inventorying this property with its own identification or property number and insuring said property to the extent necessary. Upon termination of this JPA, all real or personal property contributed by the parties shall be returned to the respective party that contributed such property and any all surplus real or personal property or any surplus money accrued by MVRDA pursuant to this JPA shall be returned to CLC, DAC, Hatch, Mesilla, ~~and Sunland~~ and Anthony, in proportion to the most recent budgetary contribution percentages applicable herein.

VIII. SEVERABILITY OF PROVISIONS. If any provision of this JPA is held invalid, the remainder of this JPA shall not be affected thereby and such remainder would constitute the JPA and MVRDA would continue to operate under the remaining provisions, unless the provision held invalid was such as to make the fulfillment of the purpose of this JPA impossible or impracticable.

IX. TORT CLAIMS ACT. By entering into this Agreement, CLC, DAC, Mesilla, Hatch, ~~and Sunland~~ and Anthony and their "public employees" as defined in the New Mexico Tort Claims Act, NMSA 1978, ~~§§~~, " 41-4-1 et seq., do not waive sovereign immunity, or any defense or limitation of liability pursuant to law. No provision in this JPA modifies or waives any provision of the New Mexico Tort Claims Act.

MVRDA JPA

X. EFFECTIVE DATE AND AMENDMENTS. This Agreement shall not be effective until approved by the Board of Commissioners for Dona Ana County, the City Council for the City of Las Cruces, the Board of Trustees for the Town of Mesilla, the Board of Trustees for the Village of Hatch, the City Council for the City of Sunland Park, the City Council for the City of Anthony and the Department of Finance and Administration of the State of New Mexico (DFA). This Agreement cannot be amended except in writing signed by all of the parties to this JPA, and approved by DFA.

XI. EXECUTION. This JPA shall be executed in ~~five~~ eight (8) originals.

XII. ENTIRE AGREEMENT AND REPEAL. This agreement contains the entire understanding of the parties and no oral promise or agreement made by any party hereto is valid and binding unless incorporated herein. Any and all agreements made by any of the parties prior to this JPA relating to MVRDA be and the same are hereby repealed and held for naught.

XIII. LIABILITY PROVISION. No party to this JPA shall be responsible for liability incurred as a result of any other party's acts or omissions in connection with this JPA. Any liability incurred in connection with this JPA is subject to the immunities and limitations of the New Mexico Tort Claims Act. Each party shall be solely responsible for any liability as a result of its own willful acts, gross negligence, or negligence, or that of its officers, directors, agents, employees, servants, representatives, consultants, or contractors, subject to the immunities and limitations of the New Mexico Tort Claims Act.

CITY OF LAS CRUCES

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City of Las Cruces on the _____ day of _____, ~~2006~~ _____, 2012.

~~William Mattiace~~ Ken Miyagishima, Mayor

Attest: City Clerk

APPROVED AS TO FORM: _____
City Attorney

MVRDA JPA

DOÑA ANA COUNTY

THIS JOINT POWERS AGREEMENT was approved by the Board of Commissioners of Doña Ana County on the ____ day of _____, 2006 _____, 2012.

Karen G. Perez, Chairman

Attest: County Clerk

APPROVED AS TO FORM: _____
County Attorney

MVRDA JPA

TOWN OF MESILLA

THIS JOINT POWERS AGREEMENT was approved by the Board of Trustees of the Town of Mesilla on the ____ day of _____, 2006 _____, 2012.

Nora L. Barraza, Mayor

Attest: Town Clerk

APPROVED AS TO FORM: _____
Town Attorney

MVRDA JPA

VILLAGE OF HATCH

THIS JOINT POWERS AGREEMENT was approved by the Board of Trustees of the Village of Hatch on the _____ day of _____, 2006 _____, 2012.

Judd Nordyke, Mayor

Attest: Village Clerk

APPROVED AS TO FORM: _____
Village Attorney

MVRDA JPA

CITY OF SUNLAND PARK

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City
of Sunland Park on the _____ day of _____, ~~2006~~, 2012.

~~Jesus Segura~~ Javier Perea, Mayor

Attest: City Clerk

APPROVED AS TO FORM: _____
City Attorney

MVRDA JPA

APPROVED: DEPARTMENT OF FINANCE AND ADMINISTRATION

By:

By: _____

Date: _____

**City of Las Cruces – Dona Ana County – Town of Mesilla – Village of Hatch
City of Sunland Park
Joint Powers Agreement
Governing the Mesilla Valley Regional Dispatch Authority**

THIS AMENDED JOINT POWERS AGREEMENT is entered into by and between the City of Las Cruces, a New Mexico municipal corporation (“CLC”), Dona Ana County, a political subdivision of the State of New Mexico (“DAC”), the Town of Mesilla, a municipal corporation (“Mesilla”), the Village of Hatch, a municipal corporation (“Hatch”), and the City of Sunland Park, a municipal corporation (“Sunland”).

RECITALS

1. It is in the best interests of CLC, DAC, Mesilla, Hatch, and Sunland to combine public safety communications dispatch functions in order to provide more efficient and responsive communications; and
2. Pursuant to the Joint Powers Agreements Act, NMSA 1978, Sections 11-1-1 through 11-1-7, CLC, DAC, Mesilla, Hatch and Sunland are explicitly authorized to enter into a Joint Powers Agreement (hereinafter “JPA”) to establish and govern a separate agency to possess and exercise common powers of the parties, which agency shall be a joint communications center known as the Mesilla Valley Regional Dispatch Authority (MVRDA); and
3. Each party has agreed to make annual financial contributions as set forth in this agreement to operate MRVDA;

NOW THEREFORE, in consideration of the mutual benefits that will accrue to CLC, DAC, Mesilla, Hatch, and Sunland, and the residents thereof, the parties agree as follows:

I. PURPOSE OF MVRDA. The Mesilla Valley Regional Dispatch Authority was and is established to operate a combined communications center to dispatch and coordinate the emergency response departments of CLC, DAC, Mesilla, Hatch and Sunland. MVRDA shall provide services for the Law Enforcement providers for each party, being the Las Cruces Police Department, the Dona Ana County Sheriffs Department, the Mesilla Marshals Office, the Hatch Police Department, and the Sunland Park Police Department. MVRDA shall provide services for the Fire Service providers for each party, being the Las Cruces Fire Department, the combined Doña Ana County Fire Districts, the Mesilla Fire Department, the Hatch Fire Department, and the Sunland Park Fire Department. MVRDA shall also provide dispatch for Emergency Medical Services providers for CLC, DAC, Mesilla, Hatch, and Sunland. Communications services to be provided for each party through MVRDA shall include any independent contractor retained by any party to provide emergency response services.

II. THE MVRDA BOARD. MVRDA shall be governed by a Board of Directors (hereinafter “the MVRDA Board” or the “Board”).

MVRDA JPA

A. Membership. The MVRDA Board shall have twelve (12) voting members. The voting members will be designated yearly in January.

1. One (1) member and a designated alternate member shall be an elected official of CLC, appointed by the City Council.
2. One (1) member and a designated alternate member shall be a member of the DAC Board of Commissioners or management level members of the County staff, appointed by the Commission.
3. The CLC Manager shall be a member or shall designate one (1) delegate member; the CLC Manager shall also designate an alternate member.
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8. The DAC Fire Marshal shall be a member, and shall designate an alternate member.
9. One (1) member and a designated alternate shall be appointed by the Board of Trustees for the Town of Mesilla.
10. One (1) member and a designated alternate shall be appointed by the Board of Trustees for the Village of Hatch.
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12. One (1) member and a designated alternate member shall be appointed by a majority vote of the MVRDA Board.

B. Powers and Duties. The MVRDA Board shall oversee all aspects of the operation of MVRDA consistent with the requirements and limitations herein.

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b. Quorum. A majority of the Board, including any designated alternate member attending in the absence of a member, shall constitute a quorum and shall have the authority to conduct the business of the Board.

MVRDA JPA

c. Voting. Designated alternate members shall be entitled to vote only in the absence of the primary named member; a representative of the member who is not the designated alternate shall be allowed to participate in debate in the absence of the member and designated alternate, but shall not be entitled to vote as a member of the MVRDA Board.

d. By-laws. The Board shall enact By-laws, which must be approved by a 2/3 majority of a quorum of the Board after all Board members have received thirty (30) days notice of the time and place of the meeting, and that the By-laws will be considered for adoption or amendment. The MVRDA Board shall have the authority to replace the Chair or Vice-Chair upon a 2/3 vote of the quorum present. The By-laws shall address election of officers, and otherwise regulate the conduct of business of the Board, and may include any provisions not inconsistent with this JPA and the Open Meetings Act.

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- i. a financial statement audit performed by an independent certified public accountant selected by the fiscal agent, setting forth information including but not limited to revenues received and their sources, expenditures, and obligations incurred and unpaid during the reporting period;
- ii. an inventory of equipment, real and personal property held or owned by MVRDA; and
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MVRDA JPA

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- v. maintaining a liaison with all agencies utilizing the communications system;

MVRDA JPA

- vi. reporting to the Board on the operations of MVRDA.
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III. SUBCOMMITTEES. The MVRDA Board shall have the right to create subcommittees as needed from time to time to carry out the duties of the MVRDA Board, for whatever time period deemed appropriate by the Board. Any subcommittee created by the MVRDA Board shall have the right to enact its own By-laws, unless the MVRDA Board specifically provides otherwise.

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A. CLC and DAC

1. Contributions. CLC shall contribute Fifty-Three Percent (53%) and DAC shall contribute Forty-Seven Percent (47%) of the total operating budget of MVRDA for each fiscal year, excluding amounts covered by other revenue sources, and the contributions from Hatch, Mesilla, and Sunland.

2. Budget Procedures. CLC and DAC shall consider the budget recommended by the MVRDA Board, and shall notify the Director of MVRDA no later than May 31st if the party has not included its share of the MVRDA budget proposed by the Board in the preliminary budget submitted by that party to the Department of Finance and Administration for the upcoming fiscal year. Neither CLC nor DAC shall refuse to include its share of the budget proposed by MVRDA in its preliminary and final budgets if the proposed budget is equal to or less than the budget for MVRDA for the previous fiscal year, unless the governing bodies of both CLC and DAC agree to so reduce the MVRDA budget.

MVRDA JPA**B. Mesilla, Hatch, and Sunland.**

1. Contributions. The amount of contributions to the MVRDA budget for Mesilla, Hatch, and Sunland shall be determined by the MVRDA Board on an annual basis as part of the process for a budget proposal to CLC and DAC. The contributions shall be based on the number of calls expected for responses within Mesilla, Hatch, and Sunland, and not based upon a percentage of the MVRDA budget.

2. Assessment Procedures. On an annual basis, the MVRDA Board shall review the number of incoming calls for emergency responses and the number of calls dispatched within the municipal limits of Mesilla, Hatch, and Sunland during the prior calendar year, the number of calls reasonably anticipated for the upcoming calendar year, the operating costs for MVRDA for the prior fiscal year, and the anticipated operating costs for MVRDA for the upcoming fiscal year, and shall establish the amount to be paid by Mesilla, Hatch and Sunland for the upcoming fiscal year based upon the approximate actual cost per call incurred by MVRDA to provide individual services to Mesilla, Hatch and Sunland within their respective municipal limits. Operating costs utilized to determine the actual per cost call shall not include any estimate of the value of in-kind services provided by CLC and DAC or by any of the other parties under this JPA. Mesilla, Hatch and Sunland shall pay the amounts established by the MVRDA Board regardless of whether the actual responses within Mesilla, within Hatch, and within Sunland are more or less than was anticipated; upon request from Mesilla or Hatch or Sunland, the MVRDA Board shall reduce the amount payable by Mesilla, Hatch and Sunland if actual expenses for the operation of MVRDA during the fiscal year are substantially less than were anticipated when the amounts due were established.

C. Services for Other Entities. Any other potential contributor will be charged an amount as established by a pay per call formula determined by the MVRDA Board in considering the contract to provide communications services. The contractual amount shall be calculated based upon the volume of calls of the original parties to this JPA and the current approved budget. Any contract for services to an entity that is not a party to this JPA shall be limited to the current fiscal year, and the amount shall be reviewed and revised if appropriate based upon the MVRDA budget for the following fiscal year prior to renewal.

D. Payment of Contributions. CLC, DAC, Mesilla, Hatch, and Sunland will pay 22% of their respective requested annual contributions the first day of the fiscal year each year. The remaining balance for each respective party will be paid by each respective party in eleven (11) equal payments due on the 15th day of each month beginning on August 15th of each year. Any other future financial contributor to MVRDA approved by the MVRDA Board pursuant to this JPA shall pay on a monthly basis within thirty (30) days

MVRDA JPA

of submission of an invoice from MVRDA based upon calls dispatched by MVRDA for the contracted entity.

E. Late Payment of Contributions. Contribution payments made thirty or more days after the due date will be subject to a late fee. The late fee will be determined by the MVRDA Board annually based on the prevailing late fee in use by the fiscal agent.

F. Use of Excess Funds. Any excess funds at the end of the fiscal year shall be allocated as determined by the MVRDA Board.

V. FISCAL AGENT. The CLC shall operate as the fiscal agent for MVRDA. The duties of the fiscal agent shall be as follows.

A. Financial Operations.

1. The fiscal agent shall bill and collect all revenues from the parties of this agreement for and on behalf of MVRDA at the precise times and in the amounts as determined through the procedures in Article IV herein.
2. The fiscal agent will maintain separate accounting designated specifically for MVRDA revenue and operational accounts and related budgets.
3. The fiscal agent shall make all revenue or budget transfers and all disbursements for MVRDA, as directed by the MVRDA Director or his/her designee consistent with authority granted by the MVRDA Board.
4. The fiscal agent may charge monthly interest, not to exceed the highest rate allowed by law, that accrues when MVRDA operations result in a negative cash position based upon completely updated transaction processing.
5. The fiscal agent shall not allow any department of the fiscal agent to charge against any account unless the department submits an invoice with supporting documentation to be approved by the MVRDA Director or Board, consistent with policies and procedures established by the MVRDA Board and the MVRDA Director and the CLC Procurement Code.
6. The fiscal agent shall be responsible for preparing financial reports for MVRDA on an annual basis and as may be requested by the MVRDA Board from time to time, and for presenting the reports to the MVRDA Board for review and approval.
7. The fiscal agent shall strictly account for all receipts and disbursements made pursuant to this JPA, in accordance with the CLC Procurement Code and all other applicable laws and regulations.
8. The fiscal agent will provide procurement services for MVRDA in accordance with the CLC Procurement Code, consistent with New Mexico law.
9. The fiscal agent shall account for all transactions on behalf of MVRDA, including those related to fixed assets, to provide for internal controls relating to the acquisition and disposal of fixed assets and proper recording of all liabilities.
10. The fiscal agent shall provide all necessary accounting records sufficient to facilitate a "stand alone" financial statement. The MVRDA financial statements shall be audited by an independent CPA selected by CLC and all applicable

MVRDA JPA

reports shall be included in the annual audited financial statements referred to in II.B.2.a(i) "Annual Submittals". Such audits shall be performed in accordance with Governmental Audit Standards. The audit may be performed in conjunction with the CLC annual audit as required by Office of the State Auditor.

B. Personnel Administration.

1. The fiscal agent will house all personnel files of MVRDA employees, and MVRDA staff, and shall be responsible for providing updated personnel documentation to the City to maintain personnel files.
2. The fiscal agent will provide human resource in-processing and maintenance for MVRDA employees' payroll system, based upon the payroll data provided by the MVRDA Director.

C. Limitations on Duties. The fiscal agent shall only be required to provide the services described herein, which shall not include:

1. training services;
2. benefits, programs or services specifically created for the usage of the fiscal agent's employees, other than administration of benefits provided through MVRDA's personnel policies;
3. legal services;
4. risk management;
5. Employee Assistance Program; or
6. Maintenance services not critical to the operations of MVRDA.

VI. MVRDA FACILITIES. DAC shall continue to provide space, utilities, and janitorial services for MVRDA, consistent with DAC policies and procedures for providing space and services for DAC entities.

VII. TERM OF AGREEMENT. This JPA shall be perpetual unless terminated as hereinafter provided.

A. Termination. If CLC or DAC desires to terminate participation in this JPA, the party may do so only by providing written notice to the other parties at least one (1) year prior to the date of the proposed termination. If Mesilla or Hatch or Sunland desires to terminate participation in this JPA, the entity may do so by providing ninety (90) days written notice to the other parties. If Mesilla or Hatch or Sunland terminate participation in this JPA, the terms of this JPA shall continue in force as between the remaining parties. If CLC or DAC terminates participation in this JPA, the operations of MVRDA shall be discontinued upon the expiration of the termination period, unless a new JPA has been approved by the remaining parties and DFA prior to that time.

B. Ownership and Distribution of Property. All personal property previously owned by CLC, DAC, Mesilla, Hatch or Sunland for use in their individual dispatch centers and transferred to the possession of MVRDA shall become the personal property of MVRDA. MVRDA shall prepare a detailed inventory of all such equipment showing former

MVRDA JPA

ownership. This inventory shall be reviewed and approved by CLC, DAC, Mesilla, Hatch and Sunland. MVRDA shall be responsible for inventorying this property with its own identification or property number and insuring said property to the extent necessary. Upon termination of this JPA, all real or personal property contributed by the parties shall be returned to the respective party that contributed such property and any all surplus real or personal property or any surplus money accrued by MVRDA pursuant to this JPA shall be returned to CLC, DAC, Hatch, Mesilla, and Sunland, in proportion to the most recent budgetary contribution percentages applicable herein.

VIII. SEVERABILITY OF PROVISIONS. If any provision of this JPA is held invalid, the remainder of this JPA shall not be affected thereby and such remainder would constitute the JPA and MVRDA would continue to operate under the remaining provisions, unless the provision held invalid was such as to make the fulfillment of the purpose of this JPA impossible or impracticable.

IX. TORT CLAIMS ACT. By entering into this Agreement, CLC, DAC, Mesilla, Hatch, and Sunland and their "public employees" as defined in the New Mexico Tort Claims Act, NMSA 1978, " 41-4-1 et seq., do not waive sovereign immunity, or any defense or limitation of liability pursuant to law. No provision in this JPA modifies or waives any provision of the New Mexico Tort Claims Act.

X. EFFECTIVE DATE AND AMENDMENTS. This Agreement shall not be effective until approved by the Board of Commissioners for Dona Ana County, the City Council for the City of Las Cruces, the Board of Trustees for the Town of Mesilla, the Board of Trustees for the Village of Hatch, the City Council for the City of Sunland Park, and the Department of Finance and Administration of the State of New Mexico (DFA). This Agreement cannot be amended except in writing signed by all of the parties to this JPA, and approved by DFA.

XI. EXECUTION. This JPA shall be executed in five (5) originals.

XII. ENTIRE AGREEMENT AND REPEAL. This agreement contains the entire understanding of the parties and no oral promise or agreement made by any party hereto is valid and binding unless incorporated herein. Any and all agreements made by any of the parties prior to this JPA relating to MVRDA be and the same are hereby repealed and held for naught.

XIII. LIABILITY PROVISION. No party to this JPA shall be responsible for liability incurred as a result of any other party's acts or omissions in connection with this JPA. Any liability incurred in connection with this JPA is subject to the immunities and limitations of the New Mexico Tort Claims Act. Each party shall be solely responsible for any liability as a result of its own willful acts, gross negligence, or negligence, or that of its officers, directors, agents, employees, servants, representatives, consultants, or contractors, subject to the immunities and limitations of the New Mexico Tort Claims Act.

MVRDA JPA

CITY OF LAS CRUCES

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City of Las Cruces on the ___ day of _____, 2006.

William Mattiace, Mayor

Attest: City Clerk

APPROVED AS TO FORM: _____
City Attorney

DOÑA ANA COUNTY

THIS JOINT POWERS AGREEMENT was approved by the Board of Commissioners of Doña Ana County on the ___ day of _____, 2006.

, Chairman

Attest: County Clerk

APPROVED AS TO FORM: _____
County Attorney

MVRDA JPA

TOWN OF MESILLA

THIS JOINT POWERS AGREEMENT was approved by the Board of Trustees of the Town of Mesilla on the __ day of _____, 2006.

, Mayor

Attest: Town Clerk

APPROVED AS TO FORM: _____
Town Attorney

VILLAGE OF HATCH

THIS JOINT POWERS AGREEMENT was approved by the Board of Trustees of the Village of Hatch on the __ day of _____, 2006.

Judd Nordyke, Mayor

Attest: Village Clerk

APPROVED AS TO FORM: _____
Village Attorney

MVRDA JPA

CITY OF SUNLAND PARK

THIS JOINT POWERS AGREEMENT was approved by the City Council of the City of Sunland Park on the __ day of _____, 2006.

Jesus Segura, Mayor

Attest: City Clerk

APPROVED AS TO FORM: _____
City Attorney

APPROVED: DEPARTMENT OF FINANCE AND ADMINISTRATION

By:

Date: _____