

**JOINT POWERS AGREEMENT FOR A JOINT WATER AND
WASTEWATER OPERATING AUTHORITY AND JOINT
SUBDIVISION, ZONING, PLANNING AND PLATTING
AUTHORITY BETWEEN THE CITY OF SUNLAND PARK AND
THE COUNTY OF DOÑA ANA, NEW MEXICO**

This Joint Powers Agreement ("JPA") is entered into on this 24TH day of FEBRUARY, 2009, by and between the City of Sunland Park, New Mexico ("City") and the County of Doña Ana, New Mexico ("County"). Individually, the City and County may be referred to as a "Party" or collectively as the "Parties" to this JPA.

WHEREAS, on Thursday, February 10, 2005, the City and the County executed a Memorandum of Understanding establishing an Interim Joint Authority for the purpose of combining all of the City water and wastewater facilities and operations with certain defined County water and wastewater facilities and operations (hereinafter referred to as "MOU"); and

WHEREAS, on same date, the City and County simultaneously executed an interim JPA for the purpose of designating subdivision, zoning, planning and platting jurisdiction within a certain designated interim service area (hereinafter referred to as "Interim JPA"); and

WHEREAS, Paragraph 4(a) of the MOU and Paragraph 6 of the Interim JPA obligates the Parties to craft and submit for City and County approval this JPA; and

WHEREAS, the City is authorized by §3-26-1 et seq. and §3-27-1 et seq. NMSA 1978, to own and operate sewer and water utilities and to sell sewer and water utility service; and

WHEREAS, the County is authorized by §4-36-10 NMSA 1978 to own and operate sewer and water utilities and to sell sewer and water utility service; and

WHEREAS, the City and the County are authorized by §3-19-1 et seq., §3-20-1 et seq., §3-21-1 et seq., and § 47-6-1 et seq. NMSA 1978 to adopt and administer subdivision, zoning, planning and platting rules and regulations governing the use and methods of use of land within their respective jurisdictions; and

WHEREAS, the City and the County are authorized by § 3-21-3 and § 3-21-3.1 NMSA 1978 and by Joint Powers Agreement Act, §11-1-1 et seq. NMSA 1978, to establish an extraterritorial zone within the County and to adopt rules and regulations within that area for the joint administration of subdivision, zoning, planning and platting matters; and

WHEREAS, the City and the County are public agencies and are authorized by the Joint Powers Agreements Act, §11-1-1 through §11-1-7 NMSA 1978, to enter into this agreement; and

WHEREAS, pursuant to the Joint Powers Agreements Act, §11-1-1 through §11-1-7 NMSA 1978, the City and the County desire and intend to enter into this JPA to exercise their common power, as cited above, to create an independent entity to own and operate sewer and water utilities, to sell sewer and water utility service, to adopt and administer subdivision, zoning, planning and platting rules and regulations within a designated service area, and to establish an extraterritorial zone within the County; and

WHEREAS, the City and the County agree that the integration of said water and wastewater facilities and operations would give rise to economies of scale in the acquisition, construction and operation of water and wastewater facilities resulting in a higher level of service to all customers and long-term residential and commercial growth potential both inside the affected service area, and for the entire state of New Mexico; and

WHEREAS, the City and the County further agree that the establishment of an independent joint authority for the purpose of the regulation of subdivision, zoning, planning and platting within a designated service area will similarly give rise to economies of scale in administration and application of established uniform standards giving rise to uniform planned development of the service area; and

WHEREAS, it is the Parties' intent to execute this JPA for the purpose of implementing the above cited provisions of the MOU and Interim JPA.

IT IS AGREED between the City and County as follows:

Section 1. Official Name of the Joint Authority.

The official name of the Independent Joint Authority created by this JPA shall be the "Camino Real Regional Utility Authority."

Section 2. Definitions.

- A. City: The City of Sunland Park, New Mexico.
- B. County: The County of Dona Ana, New Mexico.
- C. Joint Authority: The independent governing body and agency created, established and empowered by this JPA to: (1) operate all the City water and wastewater facilities and certain County water and wastewater facilities within a certain defined service area as depicted on map Exhibit "A" attached hereto and more particularly defined immediately below as the Water and Wastewater Service Area and (2) regulate the subdivision,

zoning, planning and platting within a certain defined service area as depicted on map Exhibit "B" attached hereto and more particularly defined immediately below as the Subdivision, Zoning, Planning and Platting Service Area, and (3) to undertake all things necessary to protect, preserve, and carry out the public purposes set out in (1) and (2) above.

- D. JPA: This joint powers agreement executed by the City and the County creating, establishing and empowering an independent joint authority for the purpose of: (1) operation of all of the City water and wastewater facilities and certain County water and wastewater facilities within a certain defined service area as depicted on map Exhibit "A" attached hereto and more particularly defined immediately below as the Water and Wastewater Service Area and (2) regulation of subdivision, zoning, planning and platting within a certain defined service area as depicted on map Exhibit "B" attached hereto and more particularly defined immediately below as the Subdivision, Zoning, Planning and Platting Service Area, and (3) to undertake all things necessary to protect, preserve, and carry-out the public purposes set out in (1) and (2) above.
- E. Water and Wastewater Service Area ("W/WW Service Area"): The service area that includes the area within the City limits and a certain area within the unincorporated territory of Southern Dona Ana County, as depicted on map Exhibit "A" attached hereto.
- F. Subdivision, Zoning, Planning and Platting Service Area ("SZPP Service Area"): The service area that includes the W/WW Service Area, excluding the area within the City limits (as may be extended from time to time through annexation by the City) and excluding the Dona Ana County Airport, as depicted on map Exhibit "B" attached hereto.

Section 3. Purpose.

The purpose of this Joint Powers Agreement is to create, establish and empower an independent Water and Wastewater Utility Authority to provide municipal water and wastewater utility services to present and future development within a designated service area that encompasses the City of Sunland Park and a certain area within the unincorporated territory of Southern Doña Ana County, as depicted on map Exhibit "A" attached hereto, and to provide-for and administer subdivision, zoning, planning and platting regulations for present and future development within a designated service area within Southern Doña Ana County, as depicted on map Exhibit "B" attached hereto.

Section 4. Powers of the Authority.

The Joint Authority is the administering agency authorized to exercise all powers common to each of the parties in the designated service area with respect to water and wastewater systems and facilities, and with respect to subdivision, zoning, planning and platting in the designated areas, including but not limited to the following:

- A. To make and enter into contracts;
- B. To apply for and accept grants and contributions;
- C. To employ or contract for the services of employees, consultants, professionals and such other persons or entities as it deems necessary, including but not necessarily limited to contract operators for all or any portion of the Joint Authority's water and wastewater facilities or all or any portion of the Joint Authority's subdivision, zoning, planning and platting functions and under such terms and conditions as may be established by the Joint Authority Board in the agreements relating to such contract operators;
- D. To make plans and conduct studies;
- E. To adopt, implement and enforce all policy and procedure necessary for the accomplishment of its purposes herein;
- F. To acquire, construct, operate and maintain buildings, improvements and water and wastewater facilities;
- G. To acquire and dispose of equipment;
- H. To acquire and dispose of real property;
- I. To condemn property for the purpose of accomplishing its public purposes set out in the JPA with respect to water and wastewater operations and subdivision, zoning, planning and platting operations; however, property owned by either the County or the City cannot be condemned without their respective consent.
- J. To sue and be sued in its own name;
- K. To incur debts sufficient to maintain its operations subject to the limitations of this JPA;
- L. To set reasonable rates which are at least sufficient to pay all operation, maintenance and administrative expenses, financial and operational

reserve funding, debt service coverage requirements and all other costs and expenses necessarily incurred by the Joint Authority;

- M. To bill and collect fees and other charges based on usage and the rates set by the Joint Authority for connection to and use of the water and wastewater facilities;
- N. To impose conditions on the use of its facilities;
- O. To adopt resolutions and ordinances necessary to carry out the purposes of this JPA;
- P. To issue revenue bonds and to pledge the net revenues from the operation of the Joint Authority's water and wastewater systems to the payment of the revenue bonds;
- Q. To adopt a budget annually;
- R. To obtain necessary public liability and property insurance coverage;
- S. Consistent with the New Mexico Tort Claims Act, to indemnify, hold harmless, and defend the City and the County from any claim for personal injury or property damage resulting from the willful acts or negligence of the Joint Authority, any of its agents, employees, servants, representatives, officers and directors under this JPA. However, such indemnification shall be paid solely from a special fund created from the water and wastewater revenues generated by the Joint Authority's utility operations with no indemnification to be sought from or paid from the Joint Authority's general treasury;
- T. To establish an Extraterritorial Zoning Authority and to appoint members to or to act ex officio as the Extraterritorial Zoning Authority. If an appointed board, members to be appointed may be individual members of the permanent joint authority board and others.
- U. To establish an Extraterritorial Planning and Zoning Commission (or comparable body) and appoint members thereto to assist the Joint Authority with the administration of the subdivision, zoning, planning and platting regulations and to vest it with certain powers and to delegate to it certain duties connected therewith in accordance with state law;
- V. To set fees and other charges in the administration of the subdivision, zoning, planning and platting regulations; and

- W. To bill and collect fees and other charges imposed by the Joint Authority in the administration of the subdivision, zoning, planning and platting regulations.
- X. To undertake the planning, development and implementation of a forty (40) year water plan to acquire and hold unused water rights pursuant to such plan and exercise such other powers granted by NMSA 1978, § 72-1-9 (2008) or as amended.
- Y. To form a Special Water Users' Association pursuant to Articles 72 and 73 NMSA.
- Z. To perform any other lawful power or action reasonably necessary to execute the foregoing express powers.

Section 5 Board Membership. The Parties agree that the Joint Authority shall be governed by a board composed of:

- A. Two (2) elected officials from Sunland Park. These appointees shall each serve a two-year term. At the City's annual organization meeting next held following the end of the two year terms, the City shall re-appoint two Board members who may be the same individuals presently serving or new appointees.
- B. Two (2) County Commissioners (one of the individuals would be the commissioner whose district includes Sunland Park). These appointees shall each serve a two-year term. At the County's annual organization meeting next held following the end of the two year terms, the County shall re-appoint two Board members who may be the same individuals presently serving or new appointees.
- C. The New Mexico Senator (or a delegate) whose district includes the Sunland Park/Santa Teresa area. In the event of a re-districting which splits the "Sunland Park/Santa Teresa area" into more than one district, then the New Mexico Senator from the largest district geographically within the Joint Authority Water and Wastewater service area shall serve as the member of the Joint Authority Board;
- D. The New Mexico Representative (or a delegate) whose district includes the Sunland Park/Santa Teresa area. In the event of a re-districting which splits the "Sunland Park/Santa Teresa area" into more than one district, then the New Mexico Representative from the largest district geographically within the Joint Authority Water and Wastewater service area shall serve as the member of the Joint Authority Board; and

- E. One (1) member to be selected by the majority of the aforementioned six members. The member shall be a professional with real property development or engineering experience or a background in economic development. This appointee shall serve a two (2) year term at the end of which the Joint Authority shall make a new appointment which may be the same individual or a new appointee.
- F. Vacancies that occur during the term of a given member shall be filled in the same manner as the original appointments, set forth above, for the purpose of serving-out the unexpired term of the departing Board member.

Section 6. Water/Wastewater Utilities Integration and Asset Transfers.

The County and the City shall integrate their separate water rights, water and wastewater systems located within the W/WW Service Area, into one utility by conveying their water and wastewater facilities, other water and wastewater assets, improvements, and property real and personal, tangible and intangible, including all records related thereto, to the Joint Authority without cost. As provided for in the MOU executed by the County and the City, the County's La Union service area and water and wastewater infrastructure serving that area are specifically excepted from the said integration and transfer.

The conveyances are made "as is" and without any express or implied warranty.

Section 7. Operation and Maintenance of Water/Wastewater Systems.

The Joint Authority shall provide for the operation and maintenance of its water and wastewater systems by certified operators. At the discretion of the Joint Authority, operation and maintenance may be done "in-house" by staff employed by the Joint Authority or by contract with another government entity or entities or by contract with a private operator or operators. Any contract with a private operator or operators shall be entered into pursuant to and consistent with the New Mexico State Procurement Code and Regulations.

Section 8. Use and Disposition of Water/Wastewater Utility Revenues.

Income derived from the operation of the Joint Authority water and wastewater utility shall be used in the following priority:

- A. To maintain the Joint Authority water and wastewater utility in good repair and to pay legitimate expenses of operation;

- B. To pay principal and interest on revenue bonds assumed or issued by the Joint Authority for the purpose of acquiring, repairing, improving or enlarging the Joint Authority water and wastewater utility, which expenses include but are not limited to those debt obligations set forth in Section 15;
- C. To create a sinking fund for future capital expenses and a reasonable reserve fund to make payments on the indebtedness of the Joint Authority as required by the ordinance(s) authorizing the revenue bonds and the law governing their issuance;
- D. To pay the cost of improving and extending the Joint Authority water and wastewater utility and the redemption of revenue bonds prior to their maturity if permitted by the ordinance(s) authorizing their issuance; and
- E. Any other purposes determined by the Joint Authority Board as reasonably necessary for operations.
- F. Any surplus revenues not expended pursuant to provisions 8 A through E above shall remain in a Joint Authority's utility fund for future water and wastewater utility expansions or other water and wastewater utility uses.

Section 9. Subdivision, Zoning, Planning and Platting.

The Joint Authority shall be granted the following powers to exercise only in the SZPP Service Area:

- A. All powers concerning subdivisions as contemplated by Chapter 3, Article 20 NMSA 1978;
- B. All powers concerning zoning as contemplated by Chapter 3, Article 21 NMSA 1978;
- C. All powers concerning planning and platting as contemplated by Chapter 3, Article 19 NMSA 1978; and
- D. All powers arising by necessary implication from the express powers granted in A, B and C above, in order to execute those express powers.

The Joint Authority shall adopt all resolutions and ordinances necessary for the regulation of all subdivision, zoning, planning and platting within the SZPP Service Area, which ordinances shall include zoning ordinance provisions similar to those contained in the Doña Ana County Ordinance Number 30-83, entitled, "Zoning Ordinance to Limit Height of Objects Around the Santa Teresa Airport", as necessary to protect and prevent the airport, its users, and the general public from the creation of establishment

of any obstruction or hazard to air navigation. The Joint Authority shall establish a planning and zoning commission (or comparable body) in accordance with applicable state law to assist it with the administration of the subdivision, zoning, planning and platting regulations adopted by it. At the discretion of the Joint Authority, administration of its subdivision, zoning, planning and platting function may be done "in-house" by a staff employed by the Joint Authority or by contract with another government entity or entities or by contract with a private operator or operators. Any contract with a private operator or operators shall be entered into pursuant-to and consistent-with the New Mexico State Procurement Code and Regulations; and

Section 10. Use and Disposition of Subdivision, Zoning, Planning and Platting Revenues.

Income derived from fees and other charges imposed by the Joint Authority in the administration of subdivision, zoning, planning and platting regulations shall be deposited into the Joint Authority's general fund.

Section 11. Financial Operations.

- A. The Joint Authority shall be responsible for all financial operations of the Joint Authority's water and wastewater operations and those associated with the Joint Authority's subdivision, zoning, planning and platting functions, including but not limited to providing strict accountability of all receipts and disbursements, establishing a uniform system of accounts, paying all bond payments and other obligations and expenses, investing operating and excess funds not required for current operations, and maintaining financial records in accordance with generally accepted accounting principles("GAAP").
- B. The Joint Authority may employ an Executive Director to serve as liaison between the Joint Authority and the general management for both the water and wastewater utility sector and the subdivision, zoning, planning and platting sector, whether such general management be employees of the Joint Authority or other persons or entities contracted to perform those functions.
- C. The Joint Authority may employ any additional staff or contract for services by consultants, professionals or such other persons or entities it deems necessary to accomplish the Joint Authority's purposes. Any contract with a private party, including but not limited to consultants and professionals, shall be entered into pursuant-to and consistent-with the New Mexico State Procurement Code and Regulations.

Section 12. Reports.

- A. The Joint Authority shall prepare and submit unaudited quarterly, and audited annual financial reports, including but not limited to a profit & loss statement, balance sheet, and statement of cash flows, to the City and the County. The financial reports shall be prepared in accordance with generally accepted accounting principles (“GAAP”).
- B. The Joint Authority shall prepare and submit to the City and the County quarterly and annual status reports on the Joint Authority’s major projects, both planned and in progress, including cost projections.
- C. The Joint Authority shall prepare and submit to the City and the County quarterly and annual reports showing receipts, expenditures and balances for each account or fund associated with any bond issuance.

Section 13. Dispute Resolution.

In an effort to resolve any disputes that may arise after the execution of this JPA, the parties agree to negotiate all disputes between them in good faith for a period of sixty (60) days from the date of notice prior to submission of this matter to mediation, unless compliance with this provision may result in barring the aggrieved party from pursuing this matter through litigation because of the lapse of any applicable statute of limitations. The parties agree that if the dispute(s) between them cannot be resolved through negotiation, this matter shall be submitted to mediation with a mutually agreed mediator, unless compliance with this provision may result in barring the aggrieved party from pursuing this matter through litigation because of the lapse of any applicable statute of limitations. If the Parties cannot agree on a mutually acceptable mediator, either party may submit this matter to a court of competent jurisdiction for appointment by the court of a mediator. Only if mediation fails, may a party file a court action. Failure to achieve a settlement of the issues by mediation is a prerequisite to the filing of any court action to litigate the issues in dispute.

Section 14. Annexation.

The Parties expressly agree that nothing in this JPA will impair, impact or diminish the City’s power or ability to annex territory outside of its present City limits and under the jurisdiction of this Joint Authority. If such annexation occurs, the Parties expressly agree that the City will have exclusive authority to administer all subdivision, zoning, planning and platting processes for the annexed territory in accordance with all

applicable City resolutions and ordinances. The intent of the Parties is for the City to maintain exclusive jurisdiction of all subdivision, zoning, planning and platting within its City limits, as may be extended from time to time through annexation. However, such annexations shall not impact or otherwise redefine the Joint Authority's power to administer water and wastewater operations within the W/WW Service Area as established by this JPA; nor shall any such annexation impact the right and authority of the County to apply its own subdivision, zoning, planning and platting ordinances to the development of the County's Santa Teresa Airport property.

Section 15. Assumption of Debts, and Other Obligations.

The Joint Authority shall assume and covenant to pay the debts and other liabilities of the County and City that were connected with or related to their ownership and operation of their respective water and wastewater systems prior to, and at the time of, the conveyance of those systems, and only as to those systems, infrastructure, and facilities conveyed, to the Joint Authority. The County and City debts and other liabilities to be assumed by the Joint Authority are set forth in Exhibits "C" and "D", respectively, and attached hereto. In addition, the Joint Authority shall assume the water and wastewater service obligations of the County and the City to its customers undertaken by contract or by other commitment.

The Joint Authority shall indemnify, hold harmless and defend the County and the City as to those debts, other liabilities and obligations so-assumed.

Section 16. Duration.

The term of this JPA shall be for a period of twenty (20) years from the date this JPA is approved by the New Mexico Department of Finance and Administration. Upon the expiration of this JPA, the Parties agree to transition the governance of the Joint Authority to an elected districted board. The Parties agree, however, that nothing in this JPA shall prohibit, at any time, the termination of the JPA in favor of enabling legislation granting the Joint Authority legislative powers and duties necessary to carry out its public purpose, which shall include exemption from the New Mexico Public Utilities Act.

Section 17. Termination, Division and Distribution.

The Parties expressly agree that this JPA shall only be terminated by a transition in the governance of the Joint Authority to an elected districted board upon the expiration of this JPA or upon the enactment of legislation granting the Joint Authority legislative powers and duties necessary to carry out its public purpose. The Parties agree that the successor

governmental/public entity shall be transferred, and such entity shall assume, the activities, property rights, assets and obligations of the Joint Authority, as set forth herein. The Parties expressly agree that this JPA shall not terminate in any other form, fashion or for any other reason than the hereinabove. However, in the event of a termination for other reason beyond the control of the Parties and there is no successor governmental entity to carry-on the activities of and assume the obligations of the Joint Authority, the Parties agree to meet and confer and negotiate in good faith the division and distribution as between them of the property, surplus, debts (if any) and other obligations of the Joint Authority to include the division of the Joint Authority water and wastewater service territory and obligations for service in that territory.

Section 18. Severability, Headings, Entire Agreement.

- A. If any section, paragraph, sentence, clause, or phrase of this JPA is for any reason held to be illegal, unconstitutional, invalid or unenforceable by a court or agency of competent jurisdiction, said provision shall be considered a separate, distinct, and independent part of this JPA and removed, and such decision shall not affect the validity of the remaining provisions of this JPA.
- B. The headings of the sections of this JPA are inserted only for convenience or reference and are not intended to be construed to modify, define, limit or expand the intent of the Parties.
- C. This JPA represents the entire agreement and understanding between the Parties.
- D. The Parties acknowledge that this JPA has been jointly drafted by the City and the County.

Section 19. Liability and Indemnification

- A. No party to this Agreement shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act. Each party shall be solely responsible for fiscal or other sanctions, penalties, or fines occasioned as a result of its own violation or alleged violation of requirements applicable to performance of this Agreement. Each party shall be liable for its acts of failure to act in accordance with this Agreement, subject to immunities and limitations of the New Mexico Tort Claims Act.

- B. Consistent with the New Mexico Tort Claims Act, the Joint Authority will indemnify, hold harmless and defend the City and the County from any claim for personal injury or property damage resulting from the willful acts or negligence of the Joint Authority, any of its agents, employees, servants, representatives, officers and directors under this JPA. Such indemnification shall be paid solely from a Joint Authority special fund created from the water and wastewater revenues generated by the utility operations with no indemnification to be sought from or paid from the Joint Authority's general treasury.

Section 20. Compliance with Law.

The Joint Authority shall operate the joint water and wastewater utility in accordance with applicable local, state, and federal laws and regulations.

Section 21. Amendments.

The Parties acknowledge and agree that this JPA may be amended in writing upon approval of the governing bodies of each Party, and any such amendments shall not become effective until signed by the Parties.

Section 22. Post Formation.

Should it become necessary, after the Joint Authority is formed and operational, for the Parties to take further action or sign additional documents to effectuate the agreements reached as reflected in this JPA, the parties agree to act in good faith and use due diligence to take such action or sign such documents.

Section 23. Interim Water and Wastewater Ordinances.

In the event that water and wastewater ordinances, independent of the City and the County water and wastewater ordinances, have not been enacted by the Joint Authority at the time the Joint Authority begins providing water and wastewater services, the Joint Authority shall apply the rates and other terms and conditions of service of the County's or the City's water and wastewater ordinances, depending upon the location of the development to be served and using the demarcation line as depicted on map Exhibit "E" attached hereto as the determinant. On the east side of said demarcation line, the City's water and wastewater ordinances shall be applied by the Joint Authority and on the west side of said demarcation line the County's water and wastewater ordinances shall be applied by the Joint Authority. Where development will straddle the demarcation line, the Joint Authority shall determine which water and wastewater ordinances shall apply taking into consideration the proximity and adequacy of facilities, the best interests of the public and the financial

effect on the continued financial viability of the Joint Authority. As such time as the Joint Authority enacts its own water and wastewater ordinances, those said ordinances shall automatically apply to replace the rates, terms and conditions in effect for present service and for all future service.

Section 24. Interim Subdivision, Zoning, Planning and Platting Ordinances.

In the event that subdivision, zoning, planning and platting ordinances, independent of the City and the County subdivision, zoning, planning and platting ordinances, have not been enacted by the Joint Authority at the time the Joint Authority begins providing subdivision, zoning, planning and platting services, the Joint Authority shall apply the provisions of the City's or County's subdivision, zoning, planning and platting ordinances, depending upon the location of the development and using the demarcation line as depicted on map Exhibit "F" attached hereto as the determinant. On the east side of the demarcation line, the City's subdivision, zoning, planning and platting ordinances shall be applied by the Joint Authority and on the west side of said demarcation line the County's subdivision, zoning, planning and platting ordinances shall be applied by the Joint Authority. Where development will straddle the demarcation line, the Joint Authority shall determine which subdivision, zoning, planning and platting ordinances shall apply taking into consideration the type of development, the best interests of the public and the financial effect on the continued financial viability of the Joint Authority. As such time, as the Joint Authority enacts its own subdivision, zoning, planning and platting ordinances, those said ordinances shall automatically apply to replace the City's and County's subdivision, zoning, planning and platting ordinances for all present developments not previously approved by the County, the City or the Joint Authority Board and for all future developments.

Section 25. Public Regulation Commission.

The County and the City's Water and Wastewater Utilities are excluded from New Mexico Public Regulation Commission jurisdiction or oversight under §62-3-3 (E) NMSA unless the County or City elects to come under such jurisdiction. As an integrated County and City Utility, the Joint Authority water and wastewater utility will be similarly excluded. At no time during the term of this JPA is the Joint Authority to elect to come under New Mexico Public Regulation Commission without an amendment to this JPA permitting such an election to be made duly executed by the County and City governing bodies.

Section 26. County Water and Wastewater Bonds and GRT Pledge; Defeasance; Conditional Execution

The MOU executed by the County and the City, creating the Interim Joint Regional Authority, and providing the basis for this JPA, states expressly that the County's Gross Receipts Tax (GRT) pledge securing its \$6 million dollar water and wastewater revenue bond debt is to be extinguished. The approval and execution of this JPA by the County and by the City prior to that event is conditioned upon the extinguishment of the GRT pledge by a defeasance of the revenue bonds or by some other lawful method no later than the expiration date of the last amended MOU and Interim JPA which date is presently July 31, 2009. The County agrees to act in good faith and use its best efforts to accomplish the defeasance of said revenue bonds.

Section 27. Transition Period of Control and Operation.

It is expressly understood by the County and City that after the Joint Authority is legally and officially formed, the Joint Authority will be in need of operational and administrative assistance from the County and City for a period of eighteen (18) months, from the date of such formation. The County and City agree in good faith to provide any reasonably necessary operational and administrative assistance that the Joint Authority may request during said period of time. The type of operational and administrative assistance includes, but is not limited to, the drafting and/or adoption of ordinances and policy resolutions, the hiring of or other arrangement for staff, the retention of or other arrangement for an operations and maintenance entity, the transfer of customer accounts from the City and the County to the Joint Authority with notice to customers, the arrangement for office space and equipment, the setting up of a financial system for operations and the establishment and management of bank accounts.

Section 28: Governing Law.

This JPA shall be governed by the laws of the State of New Mexico and venue for any litigation concerning this JPA shall be in Doña Ana County.

Section 29: Effective Date.

This JPA shall become effective upon the latter date of the satisfaction of the Section 26 GRT pledge extinguishment and the receipt of the necessary approvals of its terms and conditions and proposed transfers by the New Mexico Department of Finance.

IN WITNESS WHEREOF, each Party has executed this JPA on the date noted below: .

**BOARD OF COUNTY COMMISSIONERS OF
DONA ANA COUNTY, NEW MEXICO**

Dated: 2/24/09

Leticia Benavidez
Leticia Benavidez, Chair, District 5 For / Against

Oscar Vásquez Butler, Vice-Chair, District 1 For / Against

Dolores Saldaña-Caviness
Dolores Saldaña-Caviness, District 2 For / Against

Karen G. Perez
Karen G. Perez, District 3 For / Against

Scott Krahling
Scott Krahling, District 4 For / Against



ATTEST:

Lynn Ellins
Lynn Ellins
County Clerk

Recorded 02/27/2009 DAC

Re-recorded 04/23/2009 DAC

CITY OF SUNLAND PARK, NEW MEXICO

Approved on: February 17, 2009

M. Resendiz

By: Martin Resendiz, Mayor

Elizabeth Martinez

Elizabeth Martinez, Mayor Pro Tem
Councilor District 1

For / Against

Yvette Cortez

Yvette Cortez, Councilor District 2

For / Against

Gabriela Buso

Gabriela Buso, Councilor District 3

For / Against

Daniel Salinas

Daniel Salinas, Councilor District 4

For / Against

Angelica Marquez

Angelica Marquez, Councilor District 5

For / Against

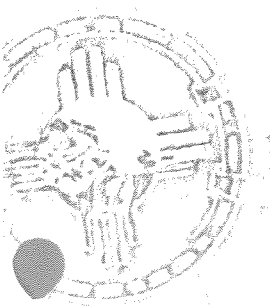
Absent

Jessica Avila, Councilor District 6

For / Against

ATTEST:

Elizabeth Gamez
Elizabeth Gamez
City Clerk



{Seal}

APPROVED BY:

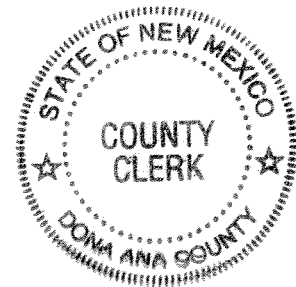
NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

[Handwritten Signature]
By: _____
Katherine B. Miller

Date: 3/11/9

JA 3/9/04

Recorded 02/27/2009 DAC



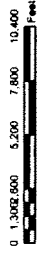
COUNTY OF DONA ANA) JOINT POWERS AGREEMENT
STATE OF NEW MEXICO) ss PAGES: 18

I Hereby Certify That This Instrument Was Filed for
Record On The 27TH Day Of February, 2009 at 09:22:43 AM
And Was Duly Recorded as Instrument #0905155
Of The Records Of Dona Ana County

Witness My Hand And Seal Of Office
Lynn J. Ellins
Deputy *[Handwritten Signature]* County Clerk, Dona Ana, NM

Re-recorded 04/23/2009 DAC

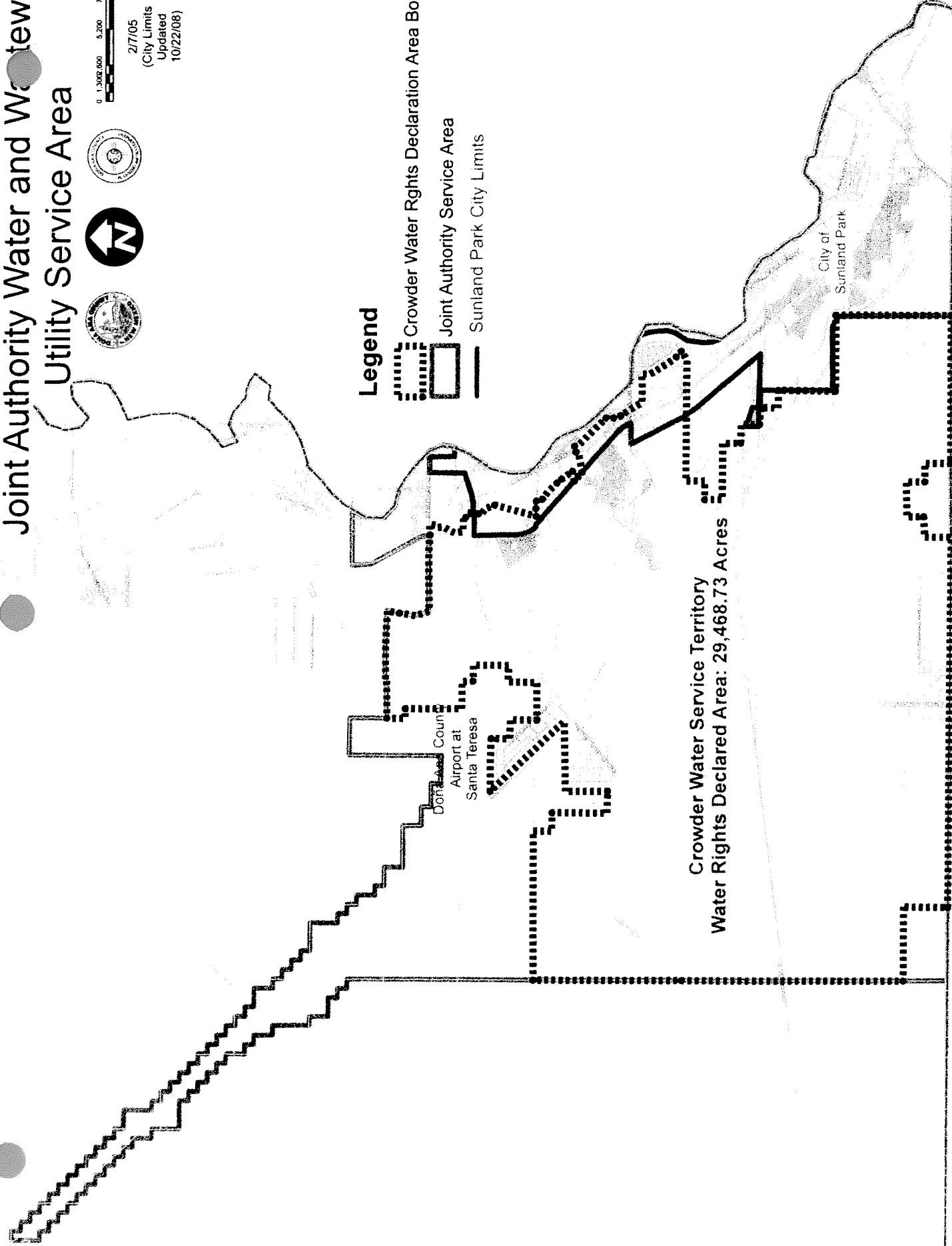
Joint Authority Water and Wastewater Utility Service Area



2/7/05
(City Limits
Updated
10/22/08)

Legend

- Crowder Water Rights Declaration Area Boundary
- Joint Authority Service Area
- Sunland Park City Limits



Crowder Water Service Territory
Water Rights Declared Area: 29,468.73 Acres



City of
Sunland Park

Joint Authority Zoning, Planning, Platting (Subdivision) Jurisdiction

01,000,000 4,000 6,000 8,000 Feet
2/7/05
(City Limits Updated 10/22/08)






Legend

-  City of Sunland Park
-  Joint Authority Jurisdictional Territory



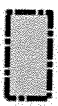

City of Sunland Park and Doña Ana County Interim Zoning, Subdivision and Platting Jurisdictional Areas

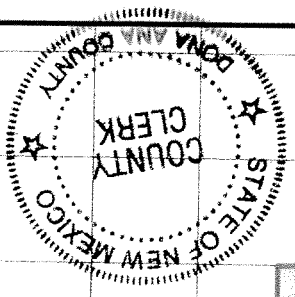
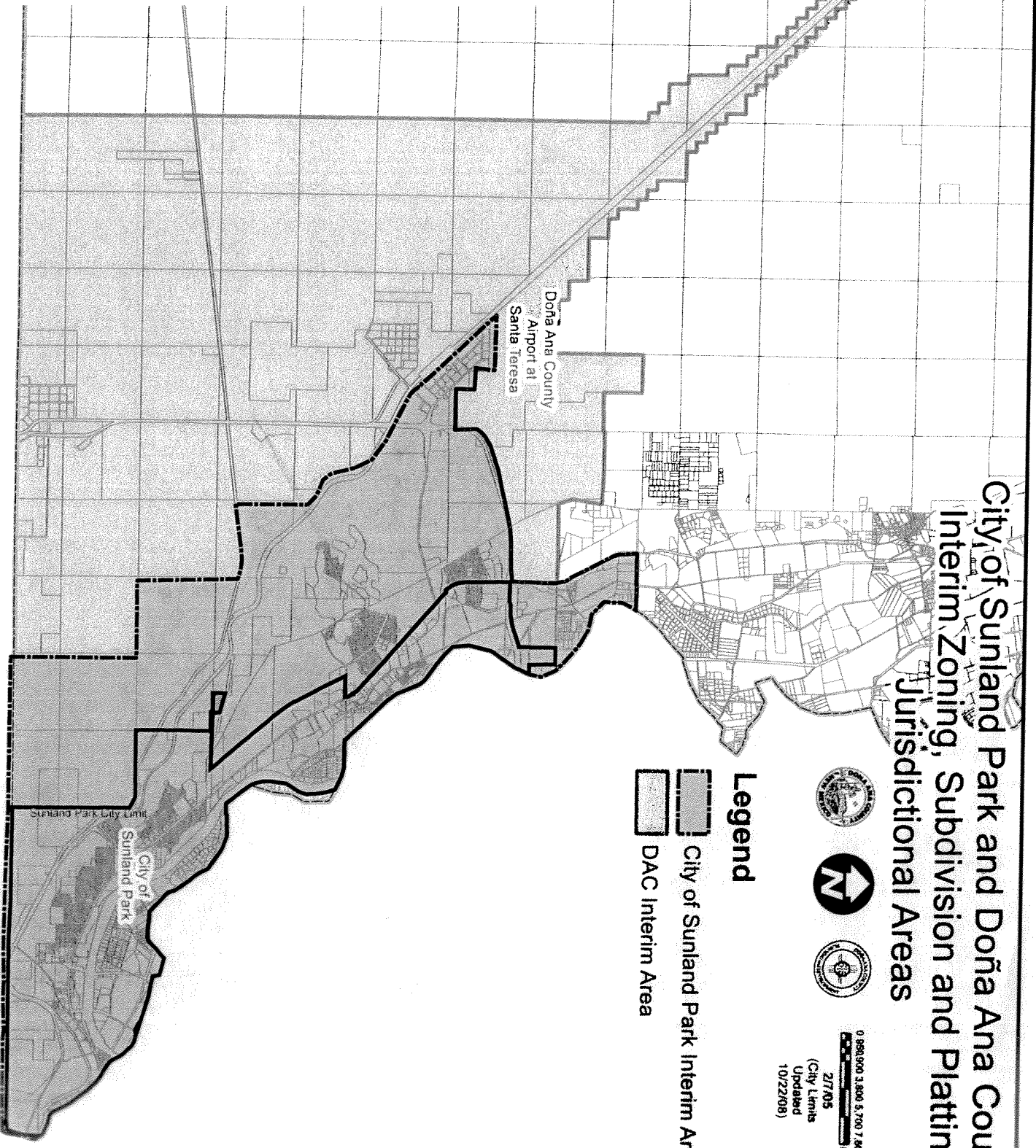




0 998,900 3,400 5,700 7,800 Feet

2/17/05
(City Limits Updated 10/22/08)

Legend

-  City of Sunland Park Interim Area
-  DAC Interim Area



JOINT POWERS AGREEMENT
 PAGES: 24
 COUNTY OF DONA ANA)
 STATE OF NEW MEXICO) ss
 I Herby Certify That This Instrument Was Filed for
 Record On The 23RD Day Of April, 2009 at 02:52:17 PM
 And Was Duly Recorded as Instrument #0910980
 Of The Records Of Dona Ana County
 Witness My Hand And Seal Of Office
 Lynn J. Ellins
 County Clerk, Dona Ana, NM
Shawna
 Deputy

EXHIBIT C: Debt of Doña Ana County
Associated With Its Water and Wastewater Facilities
To be Assumed by the Joint Authority

1. Principal balance remaining on the Doña Ana County, New Mexico Water System/Gross Receipts Tax Revenue Bonds, Series 1999, in the amount of \$5,295,000 as of June 30, 2008, or, in the alternative, should the said Revenue Bonds be satisfied by defeasance or otherwise by the County, the new indebtedness incurred by the County to satisfy the said Revenue Bonds.
2. The contingent liability to reimburse the Verde Realty Operating Partnership, LP, successor to the Verde Group for shortfall payments made on the above-described revenue bonds by Paseo del Norte Limited Partnership and Verde on behalf of the County. Currently, the amount of the contingent liability is \$2,130,731.34 principal and interest as of June 30, 2008.

City of Sunland Park
 Existing Debt W/WW
 As of August 2008

Exhibit D

Source/Agency	Original Debt Amount	Outstanding Debt Amt as of 8/05	Years Remaining	Yearly Payments	Annual % Rate	Payment Date
WWW Systems Revenue Bonds RUS	2,156,000	2,156,000	40 / 40	117,500	4.50%	Dec
WWW Systems Improvement Revenue Bonds RUS	500,000	462,950	37 / 40	27,275	4.50%	Jul
WWW Systems Revenue Bond Series 1992B RUS	177,700	157,700	28 / 40	10,784	5.50%	Dec
WWW Systems Revenue Bond Series 1992A RUS	661,100	582,100	28 / 40	41,511	5.50%	Dec
Guy Keating Loan NMED Construction Program Bureau	356,645	230,409	10 / 20	30,112	1.00%	Aug
Kansas State Bank	600,000	600,000		90,946	4.94	monthly
Totals	\$ 4,451,445	\$ 4,189,159		\$ 318,128		

City of Sunland Park and Doña Ana County Interim Service Areas



City of Sunland Park
Interim Service Areas

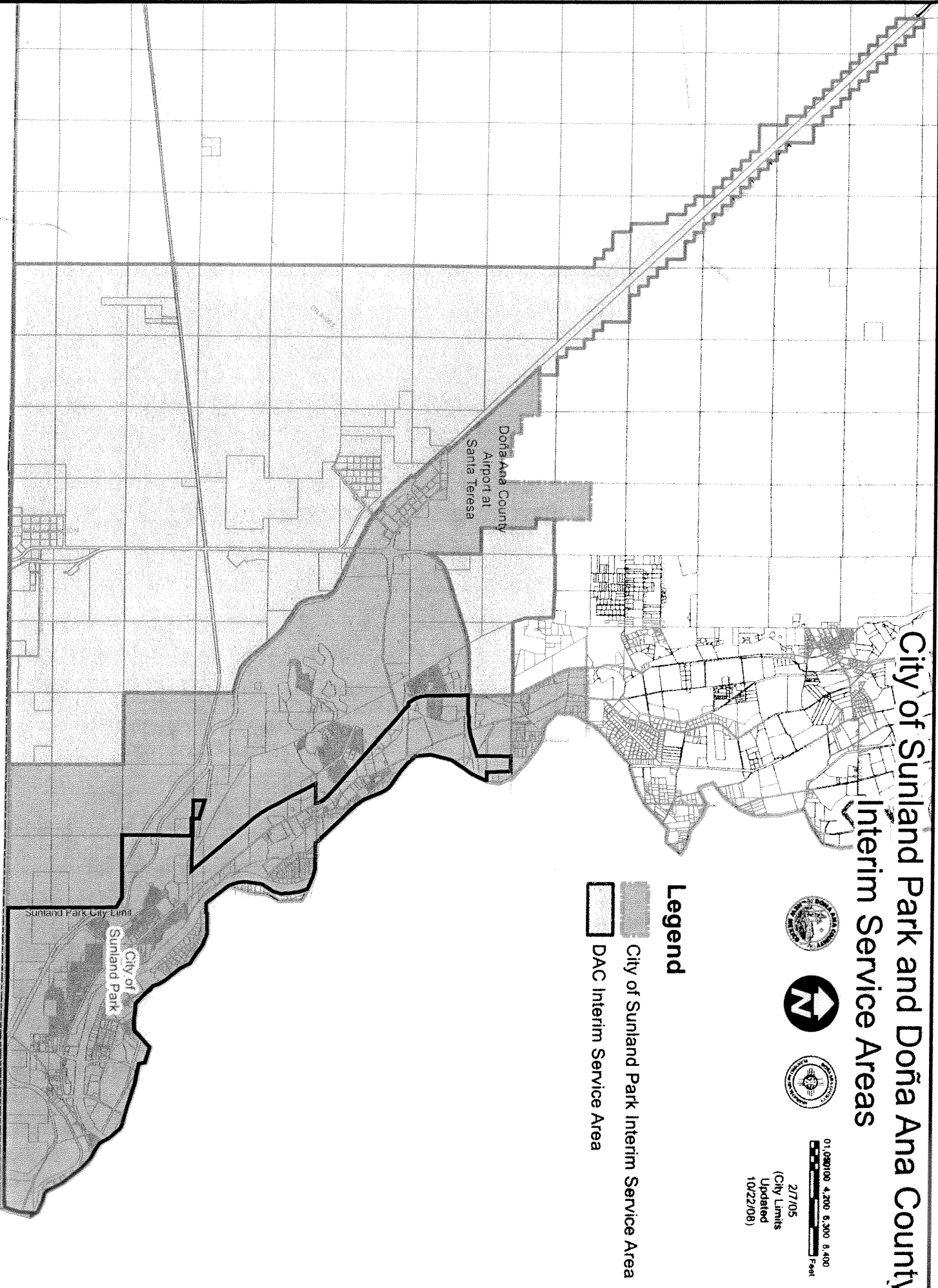


0 1,000/100 2,000 3,000 4,000
Feet

2/7/05
(City Limits
Updated
10/22/08)

Legend

-  City of Sunland Park Interim Service Area
-  DAC Interim Service Area



32080273
Recorded
Save as C:\SunlandPark\services\da\interim\CSPP\DAC\InterimServiceAreas\EA\08111208.rxd

Exhibit