

Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *April 14, 2015*

TO: *Board of County Commissioners*

FROM: *Adam Leigland, Public Works Department Director* *AK*
4/15/15

VIA: *Katherine Miller, County Manager*

ITEM AND ISSUE: *BCC Meeting April 28, 2015*

Request Approval to Publish Title and General Summary of an Ordinance Establishing Curbside Residential Solid Waste and Recycling Collection Districts within Certain Populated Parts of Santa Fe County; Prohibiting the Commercial Collection of Residential Solid Waste Within These Districts Except in Accordance with a Valid Contract Between a Commercial Solid Waste Hauler and the County; Implementing and Amending Ordinance Number 2014-10. (Public Works/Adam Leigland)

SUMMARY:

The proposed ordinance would establish three residential solid waste and recycling collection districts in the more urbanized areas of the County surrounding the City of Santa Fe. The three collection districts are identified on the attached overview map. Implementation of the Ordinance will result in a single private solid waste hauler being authorized to provide solid waste and recycling collection service in each district. Homeowners' use of the collection service will be voluntary. Homeowners in a District may choose to utilize the private hauler collection service or dispose of their solid waste on their own via the County's convenience centers. The ordinance is structured such that at least two private haulers will serve the three districts, in order to maintain a more competitive environment for future contract awards or extensions.

BACKGROUND:

One of the Commission's Solid Waste Task Force (SWTF) recommendations approved by the BCC at its October 28, 2014 meeting was the creation of solid waste collection districts in the denser areas surrounding the City of Santa Fe. The concept is that several collection districts of approximately equal size will be created, and in order for a private solid waste service provider to operate in a collection district, the private hauler must have a contract with the County. The contract will be exclusive, that is, only one hauler can operate in any one collection district, and the contract will specify certain levels of service as determined by the County. The motivating idea behind this is that by aggregating demand and requiring that private haulers contract with the

County to serve these areas, the County can ensure that residents can get higher solid waste service at a lower price.

A common disappointment expressed by County residents with existing private service is the lack of curbside recycling being offered. The contracts with the private haulers selected to provide solid waste collection will include requiring recycling collection as well.

Pursuant to BCC approval of the recommendation, in the FY15 budget, the Commission allocated funds for a consultant to assist staff with creating three "enabling documents" to develop the collection districts. The documents are:

1. Requisite solid waste ordinance
2. Request for proposals to potential private solid waste service providers
3. Draft contract between County and private solid waste service providers

The County's new comprehensive Solid Waste Ordinance, 2014-10, was adopted on November 25, 2014. Ordinance 2014-10 established most of the general enabling authority to pursue the establishment of collection districts. The subject proposed collection district ordinance, Item #1 on the list above, further defines the procedures, roles, and responsibilities of residents, the County, and private haulers with respect to establishing and administering the collection districts.

DISCUSSION:

The following represents the key issues to be addressed in the County's contracts with the private haulers that are selected to serve each collection district:

Basic service. The basic service to be provided by the private hauler will be once-weekly curbside refuse pickup and weekly or biweekly curbside recycling pickup. Bins will be provided by the private hauler. The hauler must dispose solid waste at the Caja del Rio landfill. Other services and/or parameters may be considered, such as bulky item collection, pay-as-you-throw pricing, amnesty days, household hazardous waste collection, and so on.

Special service. Household collection service beyond the basic service described above, such as greater frequency of pick-up or "side door" collection, will be provided and will be the responsibility of the individual household to subscribe to and pay for.

Accounts and billing. The contractor will be responsible for creating and maintaining customer accounts, and for customer billing. Delinquent accounts will be the contractor's responsibility.

Service Districts. Three districts have been identified, shown on the attached map. The number of households in each of the service districts is shown in the table below.

Service Districts	Number of Households
North	5011
Southeast	5726
Southwest	5006
Total	15,743

The service areas are coterminous with SDA-2 in the Santa Fe metro area, thus furthering County growth management goals, and were developed using criteria of at least 5000 households, a certain average minimum housing density, and a certain haul distance from Caja del Rio landfill.

Service parameters and rate setting. The County will establish the basic service parameters. The contractor's initial rate will be market-driven as determined in the RFP process. Subsequent rate changes will be allowed either by pre-established escalators such as the Consumer Price Index or by approval of the BCC.

Voluntary household participation. Households can voluntarily opt out of contracted service. Since the private hauler contracts will be exclusive for each district, households that opt in to contracted service will not have a choice of service provider, and households that opt out must purchase a County solid waste permit and utilize County convenience centers.

That said, it should be noted that section 7.20 of the Sustainable Land Development Code mandates that residents of Sustainable Development Area 1 must have contracted solid waste service. Further, numerous subdivisions in the proposed collection districts have development agreements that likewise require contracted solid waste collection. In these cases, household participation will be mandatory.

Although it is impossible to say precisely how many households would opt out, using permit sales data, staff estimates that of the 15,743 households in the proposed collection areas, approximately 2,400, or 15%, will opt out. Staff expects that over time, many households that initially opted out will eventually opt in.

Number of collection districts. Any private hauler will only be allowed to serve any two of the three districts at any one time. This is intended to increase opportunity for the private sector, increase competition, and prevent the County from becoming locked in to a single private hauler.

Contract fee. It is common practice for a local government to charge a fee to contractors in contract arrangements such as the one under consideration. For instance, Taos County, which already has contracted solid waste collection districts, charges any private haulers who serve in those districts a fee that is a percentage of annual gross revenues. This generates revenue for the County and also provides some quality control of the contractors, but since the haulers mostly pass the cost through, it slightly increases the cost of solid waste service to residents.

Staff is recommending in the ordinance a contract fee of 2% of gross revenues. Assuming a customer base of 13,300 households and a monthly rate of \$17/household produces annual gross revenue of \$2,700,000. Using a contract fee rate of 2% produces \$54,400 in annual revenue to the County.

Contract term. Private haulers will seek the longest term possible, and the County would likely get lower rates the longer the contract term. On the other hand, an overlong term can stifle innovation and lock the County into a poor contract. Most solid waste equipment can be amortized over seven to eight years, which will be a prime consideration for the private haulers. Staff has included a seven-year term in the ordinance.

Next Steps. State statute (Section 4-37-7(A)) requires publication of “the date and time of the meeting at which the ordinance is to be considered” for solid waste fee items. Pursuant to this, staff is requesting that the ordinance be brought to the BCC at its regularly-scheduled May 26th meeting for public hearing and possible action. Prior to that date, staff intends to hold a public meeting in each of the three proposed collection districts to solicit community input.

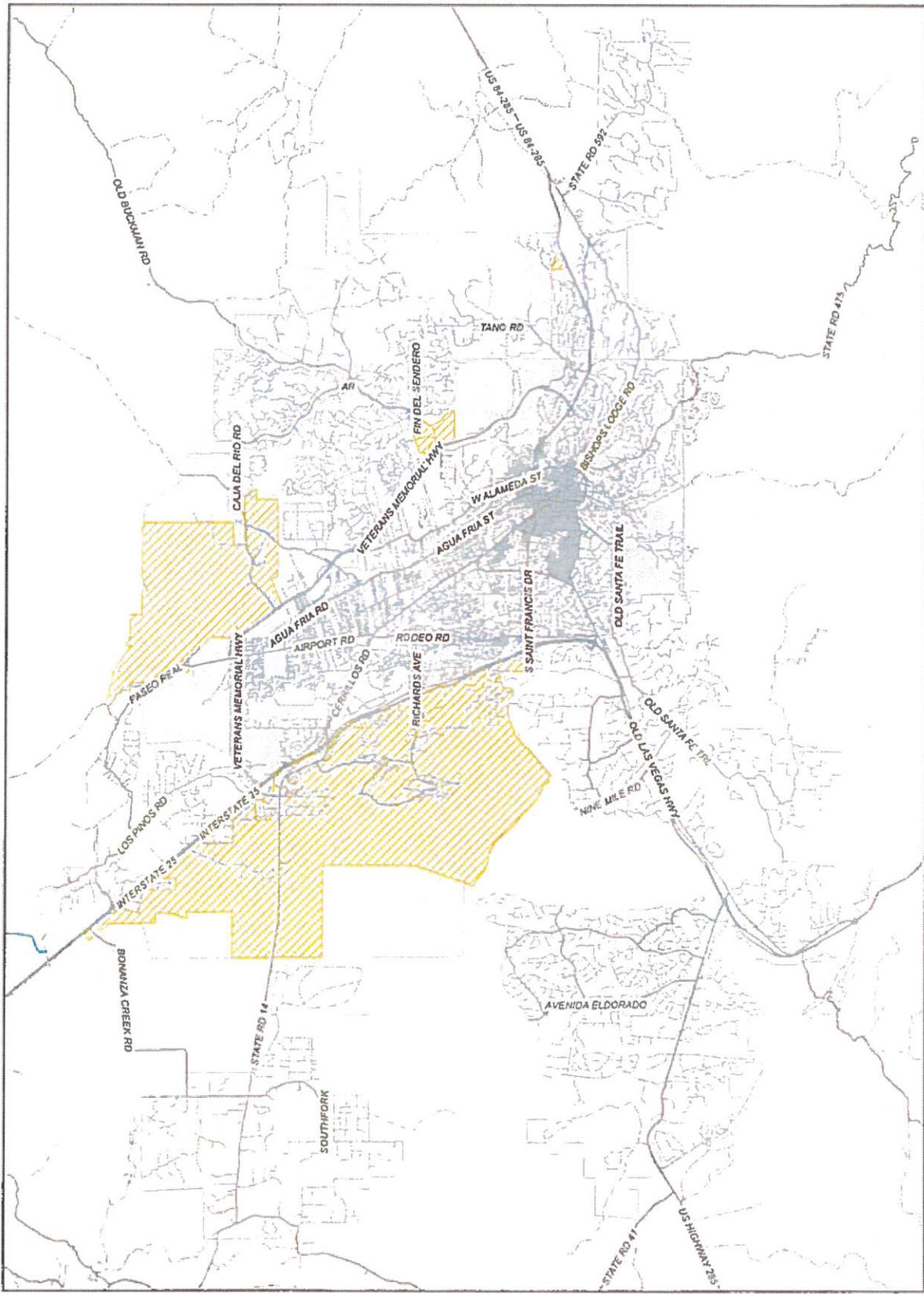
ACTION REQUESTED:

Approval to publish title and general summary of subject ordinance.

Attachments:

1. Overview map of the proposed Collection Districts
2. Proposed Ordinance with Exhibits

Overview of Residential Solid Waste Service Districts



-  Major Roads
-  SGMP SDA 1
-  North Service District
-  Southeast Service District
-  Southwest Service District
-  City of Santa Fe



April 28, 2015

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SANTA FE COUNTY

ORDINANCE NO. 2015-____

AN ORDINANCE ESTABLISHING CURBSIDE RESIDENTIAL SOLID WASTE AND RECYCLING COLLECTION DISTRICTS WITHIN CERTAIN POPULATED PARTS OF SANTA FE COUNTY; PROHIBITING THE COMMERCIAL COLLECTION OF RESIDENTIAL SOLID WASTE WITHIN THESE DISTRICTS EXCEPT IN ACCORDANCE WITH A VALID CONTRACT BETWEEN A COMMERCIAL SOLID WASTE HAULER AND THE COUNTY; IMPLEMENTING AND AMENDING ORDINANCE NUMBER 2014-10.

IT IS HEREBY ORDAINED by the Board of County Commissioners of Santa Fe as follows:

Section 1. Short Title

This Ordinance may be cited as the "Residential Solid Waste and Recycling Collection Ordinance."

Section 2. Purpose

The purpose of this Ordinance is to implement the provisions of the Solid Waste and Recycling Management Ordinance (Ordinance No. 2014-10) ("Solid Waste Management Ordinance") that require or authorize the County to establish collection districts for residential solid waste, which the Management Ordinance defines as "solid waste and recyclable material generated from a site that contains three or less Dwelling Units."

Section 3. Authority

This Ordinance is enacted pursuant to the authority granted to counties under NMSA 1978, Sections 4-37-1 (1975) and NMSA 1978, Sections 4-56-1 through 4-56-3 (1967). This Ordinance is also enacted to implement the provisions of the Management Ordinance regarding the establishment of residential solid waste collection districts, including Sections 6(A), 9(B), and 13(B)(A) and (B).

Section 4. Findings

The Santa Fe County Board of County Commissioners finds:

A. The BCC enacted the Solid Waste Management Ordinance to provide for the safety, preserve the health, promote the prosperity and improve the comfort and convenience of

the County and its inhabitants. The purposes of the 2014 Solid Waste Management Ordinance are, among other things, to:

- (1) Establish a system of storage, collection, and disposal of all refuse in the County; and
- (2) Create mandatory roadside solid waste collection districts and to establish the procedures for curbside and roadside solid waste collection.

B. The provisions of the Solid Waste Management Ordinance regarding the creation of solid waste collection districts and curbside collection within these districts are not self-executing, meaning that these provisions require further action by the BCC or the County Manager to be fully implemented. The provisions requiring further action are:

- (1) Section 5(C), requiring the County Manager to “establish rules and regulations to carry out the intent and purpose of the [Management] Ordinance;
- (2) Section 5(D), requiring the County Manager to “establish policies and procedures for billing and collection of service fees”;
- (3) Section 5(H), providing that upon the recommendation of the County Manager and approval by BCC by ordinance, “the County may regulate the activities of Commercial Solid Waste Haulers, including, but not limited to, by imposing Solid Waste and recycling reporting requirements, licensing requirements, establishment of exclusive and non-exclusive service areas, and service area fees”;
- (4) Section 6(A), requiring that “all Solid Waste accumulated in areas indicated in Exhibit A [to the Management Ordinance to be] collected, conveyed and disposed of by the County or any of its authorized contractors,” but delaying this “mandatory collection” until the BCC “establishes the fees for that service”;
- (5) Section 7(B), setting out “Requirements for Solid Waste Collected Curbside and Roadside,” including Section 7(B)(F)(1), which requires “containers [to] conform to contractor collection specifications, or to specifications promulgated by the County Manager”;
- (6) Section 9(B), requiring the BCC to “designate service areas of the County for phased-in service by mandatory Solid Waste collection services, including collection of recyclables”; and
- (7) Section 13(B) regarding “Service Fees for Mandatory Service Areas.”

C. This Residential Solid Waste and Recycling Collection Ordinance is needed to implement the forgoing provisions of the Solid Waste Management Ordinance by establishing Solid Waste Collection Districts and prohibiting the collection of Solid Waste within these Districts except by County Contractors.

D. The County's Solid Waste collection service will initially be voluntary for homeowners. This will allow the County to evaluate and adjust the program to assure that it adequately meets the needs of the County and its residents before the BCC considers whether to make the program mandatory as provided in the Management Ordinance.

E. As of the enactment of this Ordinance, the current draft Sustainable Land Development Code ("SLDC") under consideration by the County creates three Sustainable Development Areas, referred to as SDA-1, SDA-2, and SDA-3. SDA-1, where most of the development in the County has occurred and is predicted to occur in the future, overlaps substantially with the North and Southwest Districts created by this Ordinance and partially overlaps with the Southeast District.

F. The draft SLDC, if enacted as currently written, would make curbside solid waste collection service within SDA-1 mandatory upon adoption of the SLDC. In addition, the BCC may by separate ordinance make collection service mandatory anywhere within the Districts.

G. Until the County Solid Waste collection service becomes mandatory by further action of the BCC, residents will be allowed to choose whether to use the County's collection service or to dispose of their Residential Solid Waste in accordance with the Management Ordinance.

H. Except for the provisions set out in Section 4(B) above, the Solid Waste Management Ordinance is self-executing and requires no further action by the BCC or the County Manager to be enforceable.

Section 5. Definitions

The definitions set out in Section 4 of the Management Ordinance apply to this Ordinance. In addition:

"BCC" means the Santa Fe County Board of County Commissioners.

"Commercial collection of residential solid waste" means the collection and disposal of solid waste generated by a residence for a fee by anyone other than the owner of the residence.

"Contractor" means an SW Hauler who has an SWC Contract with the County granting the Contractor the exclusive right to provide Solid Waste collection services within up to two Districts.

"Curbside" as used in this Ordinance refers to both "curbside" and "roadside" collection as used in the Management Ordinance.

"Director" means the Santa Fe County Public Works Department Director.

"District" means the residential solid waste collection districts established by this Ordinance.

“Person” shall be construed broadly to include individuals and non-governmental legal entities, including but not limited to partnerships, corporations, businesses, associations, joint ventures, trusts, companies and firms.

“Residential solid waste collection contract” or “SWC Contract” means a contract between a commercial solid waste hauler and the County that grants the hauler the exclusive right to collect residential solid waste within a District.

“SW Hauler” or “Hauler” means Commercial Solid Waste Hauler as defined in the Management Ordinance.

Section 6. Establishment of Residential Solid Waste Collection Districts; Prohibiting Commercial Collection of Residential Solid Waste Collection Except in Accordance with a Residential Solid Waste Collection Contract.

- A. There is hereby established three residential solid waste collection districts:
- (1) The North District, which is depicted on Exhibit A to this Ordinance.
 - (2) The Southwest District, which is depicted on Exhibit B to this Ordinance.
 - (3) The Southeast District, which is depicted on Exhibit C to this Ordinance.

B. The Director shall have authority to adjust the boundaries of the Districts established by this Ordinance to facilitate the efficient collection and disposal of residential solid waste; provided, however, that any adjustment that would change the number of households within a district by 500 or more shall require approval by the BCC. The Director shall post changes to the District boundaries upon approval of the changes.

C. Beginning on July 1, 2016: No person shall engage in commercial collection of residential solid waste within any District except in accordance with a valid Residential Solid Waste Collection Contract entered into between the person and the County.

Section 7. Procurement of Solid Waste Collection Services; Residential Solid Waste Collection Contracts; Exclusive Solid Waste Collections Rights; Exceptions.

A. After the effective date of this Ordinance, the Director shall obtain bids from qualified SW haulers in accordance with the New Mexico Procurement Code, NMSA 1978, Sections 13-1-1 through 13-1-199, and County Procurement Ordinances and Resolutions. Unless there are insufficient qualified bidders, the Director shall enter into SWC Contracts with at least two SW Haulers for the three Districts.

B. The Director is authorized to negotiate SWC Contracts with individual qualified SW Haulers. SWC Contracts shall include standard contractual terms and, to the extent practicable, shall be substantially the same in each District. However, where circumstances

warrant, the Director may authorize variations between SWC Contracts; provided, however, that each SW Contract shall provide:

(1) The Contractor shall be responsible for collecting all fees for the collection service it provides directly from its customers. The types and amounts of fees shall be established in the SWC Contract and shall allow the Contractor a reasonable return on investment and be reasonable, transparent, and in the best interest of the County and its residents.

(2) The Contractor shall remit to the County on a semiannual basis two percent (2%) of Haulers' gross revenue.

(3) The contract term shall be seven (7) years unless terminated earlier in accordance with the terms of the Contract.

(4) Terms allowing extension beyond the original term, and for renewal of additional terms, may be included if deemed necessary or appropriate by the Director, provided that such terms must be consistent with State and County procurement law.

(5) Container specifications shall be set out in the contract or in an exhibit to the contract and shall, to the extent practicable, be the same for all districts.

(6) The Contractor shall provide a quarterly report of the Contractor's monthly expenses and gross income for the quarter and such other periodic reports as the Director may require. The Contractor's books shall be open to inspection by the County.

C. Subject to Section 7(E), upon execution of a SWC Contract, the Contractor shall have the exclusive right to provide Solid Waste collection services in the District or Districts described in the Contract.

D. No SWC Contract shall be effective until approved by the BCC, approved by the County Attorney as to form, and signed by the Director and the SW Hauler. The BCC's approval of a Contract shall constitute its final action on the establishment of the system of fees applicable in the District or Districts covered by the Contract. In accordance with NMSA 1978, Section 4-56-3(F)(1971), at least twenty days' notice of the meeting at which the BCC will consider a Contract will be provided on the County's website, and notice shall also be published in a newspaper of general circulation in the County at least fifteen days prior to the meeting. Subsequent Contracts or amendments of Contracts that would, if approved by BCC, change the system of fees in a District shall be subject to the same notice and approval process.

E. If the Contractor is unable or unwilling to provide collection services as provided in its Contract, the Directors may arrange for another Contractor, non-contract SW Hauler, or the County to provide such services.

Section 8. Amendment of Ordinance No. 2014-10.

This Ordinance amends Ordinance No. 2014-10 only as follows:

A. Subject to Section 9 of this Ordinance, the Director shall perform all duties and obligations assigned to the County Manager in Ordinance No. 2014-10.

B. In the event of a conflict between the text of this Ordinance and Ordinance No. 2014-10, this Ordinance shall prevail.

C. The references to Exhibit A in Section 6(A) of Ordinance No. 2014-10 shall be deleted and replaced by Exhibits A, B, and C of this Ordinance.

D. Except as expressly provided in Sections 8(A), (B) and (C) of this Ordinance, Ordinance No. 2014-10 shall remain in full force and effect.

Section 9. Authority of County Manager.

The County Manager shall supervise the Director in carrying out the mandates of this Ordinance and may, to the extent the County Manager deems necessary or appropriate, carry out such mandates personally or delegate them to other County staff.

**BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Robert A. Anaya, Chairperson

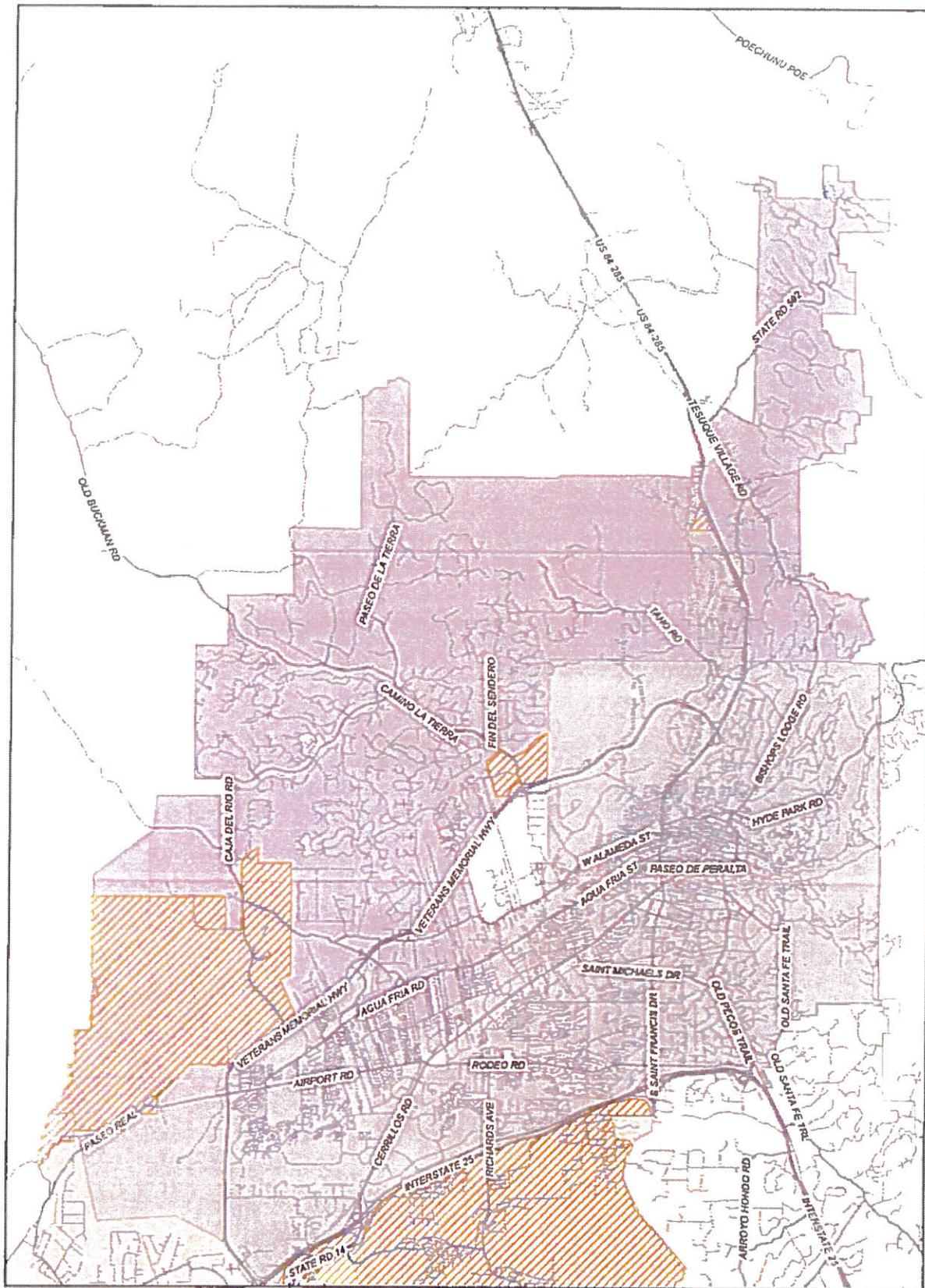
ATTEST:

Geraldine Salazar, Santa Fe County Clerk

Approved as to form:

Gregory S. Shaffer, County Attorney

Exhibit A: Solid Waste North District

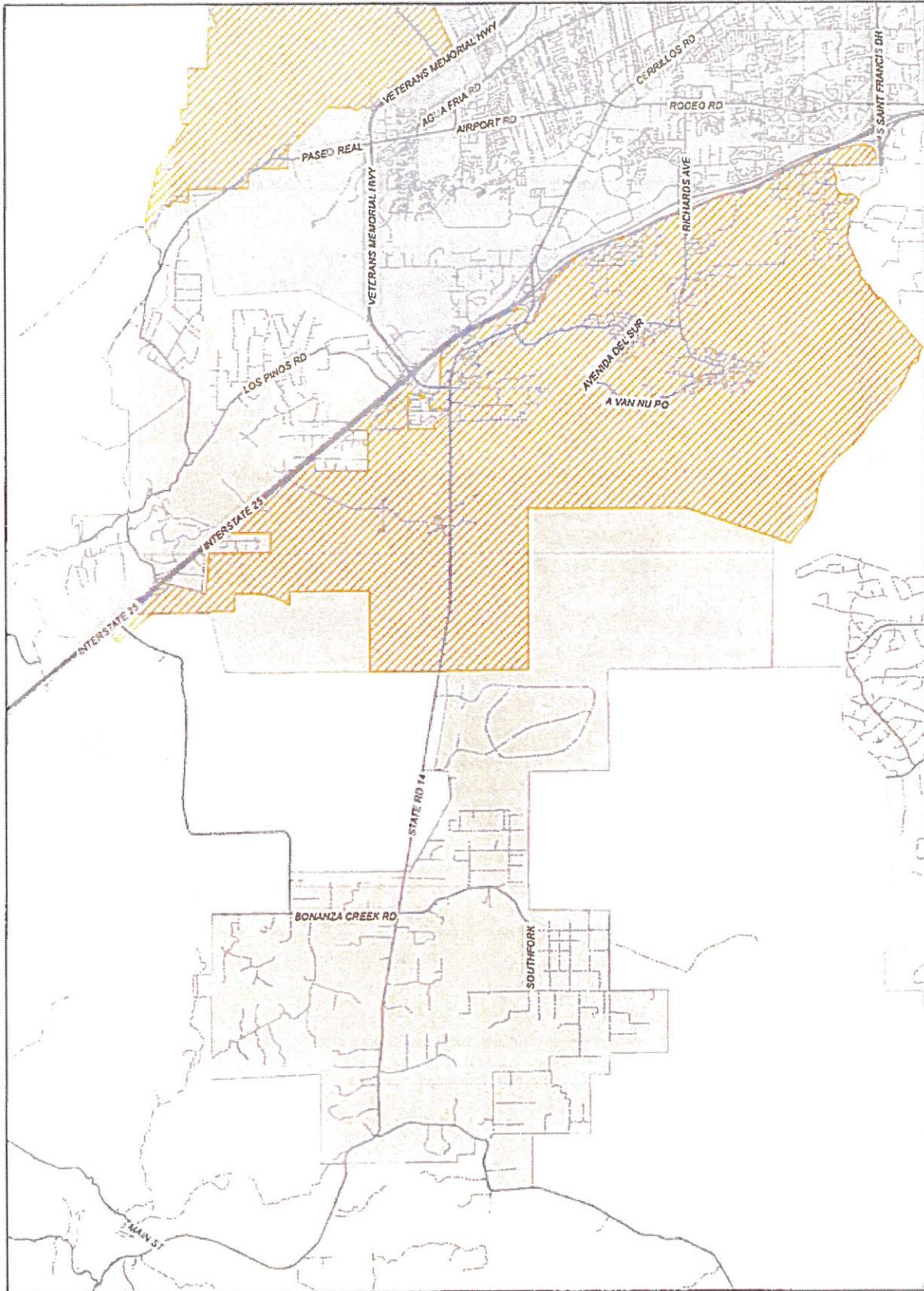


- Major Roads
- ▨ SGMP SDA 1
- ▨ North Service District
- ▨ City of Santa Fe

April 28, 2015

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Exhibit B: Solid Waste Southwest District

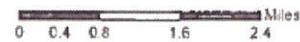
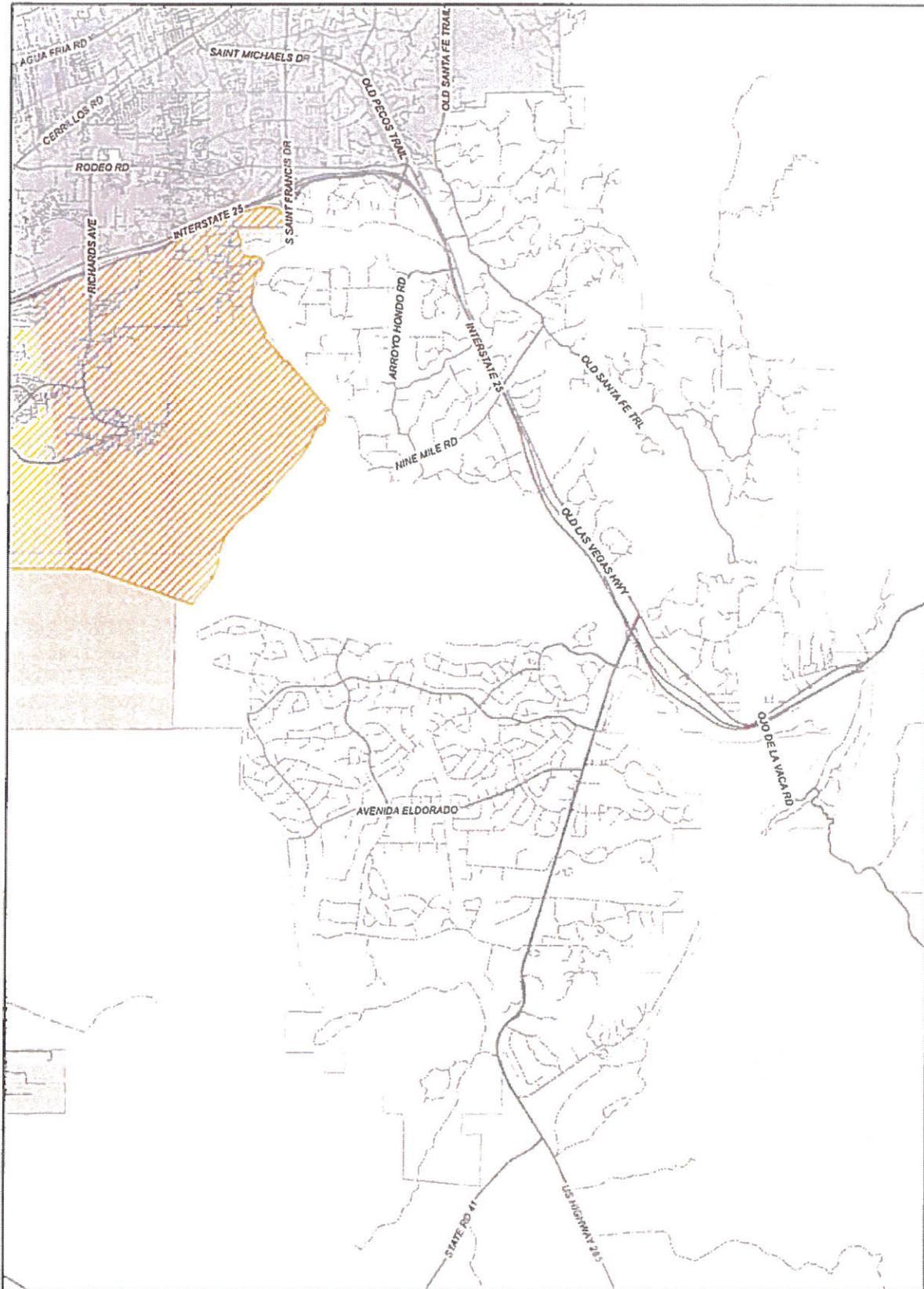


- Major Roads
- ▨ SGMP SDA 1
- ▨ Southwest Service District
- ▨ City of Santa Fe

April 28, 2015

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Exhibit C: Solid Waste Southeast District



-  Major Roads
-  SGMP SDA 1
-  Southeast Service District
-  City of Santa Fe

April 28, 2015

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