


**NO PACKET MATERIAL FOR THIS
ITEM**

EXECUTIVE SESSION

**SANTA FE COUNTY
LEGAL DEPARTMENT
MEMORANDUM**

To: The Board of County Commissioners
Katherine Miller, County Manager

From: Stephen C. Ross, County Attorney 


Date: January 14, 2013

Re: Proposed Amendment No. 2 to the City/City "First Amended" Joint Powers Agreement

Recently, Commissioner Anaya attempted to attend a meeting of the Board of Directors of the Solid Waste Management Authority as the BCC-appointed alternate member. He was prohibited from serving on the grounds that the Joint Powers Agreement did not specifically provide for the appointment of alternates.

The JPA provides that board members are "appointed and approved" by the Board of County Commissioners and the members shall serve "for such period as may be determined and approved from time to time by the Board of County Commissioners." In my judgment, this language is adequate to permit appointment and service of alternates members, as needed. However, contract counsel for SWMA and SWMA management apparently disagrees with this assessment.

Accordingly, attached is a proposed amendment to the Joint Powers Agreement that explicitly permits the appointment of alternate members. Once the amendment bears the signature of both the City and the County and submitted to the Department of Finance and Administration, any ambiguity concerning this issue will be removed.



AMENDMENT NUMBER TWO
TO CITY/COUNTY LANDFILL
FIRST AMENDED JOINT POWERS AGREEMENT

THIS AMENDMENT NUMBER TWO is made and entered into this _____ day of _____, 2013 by and between the City of Santa Fe ("City"), the County of Santa Fe ("County"), and the Santa Fe Solid Waste Management Agency.

WHEREAS, the City and County entered into a Joint Powers Agreement dated December 11, 1995 to provide for the establishment and implementation of the Solid Waste Management Agency, hereinafter "SWMA";

WHEREAS, by the First Amended Joint Powers Agreement dated November 1996, the 1995 JPA was amended and superseded;

WHEREAS, by Amendment Number One dated December 28, 2000, the First Amended Joint Powers Agreement was amended to reduce the number of members that serve on the SWMA board from four City Councilors to three and from four County Commissioners to three;

WHEREAS, Section 8.03 of the First Amended Joint Powers Agreement allows amendments to be made by written agreement executed by the City and County;

WHEREAS, the City and County agree that the First Amended JPA should be amended to provide for alternate members of the SWMA Board who will serve on the SWMA board in the absence of a board member.

NOW THEREFORE, it is agreed by the City and County that the First Amended Joint Powers Agreement be amended as follows:

1. In Section 1.02(a), in the first sentence the words "and two alternates" are inserted between "members," and "each."
2. In Section 1.02(b), in the first sentence the words "and two alternates" are inserted between "members," and "each."
3. All other provisions of the First Amended Joint Powers Agreement not specifically amended by Amendment Number One and this Amendment Number Two shall remain in full force and effect.

City of Santa Fe

Mayor David Coss

Date: _____

Yolanda Y. Vigil, City Clerk

Date: _____

Approved as to form:

Geno Zamora, City Attorney

Date: _____

County of Santa Fe Board of County
Commissioners

Kathleen Holian, Chair

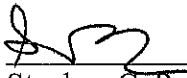
Date: _____

Attest:

Geraldine Salazar, County Clerk

Date: _____

Approved as to form:



Stephen C. Ross, County Attorney

Date: _____

PLA 97-033

**AMENDMENT NUMBER ONE TO
CITY/COUNTY LANDFILL
FIRST AMENDED JOINT POWERS AGREEMENT**

THIS AMENDMENT NUMBER ONE is made and entered into this 28 day of December 2000, by and between the CITY OF SANTA FE, NEW MEXICO, herein referred to as "CITY", the COUNTY OF SANTA FE, NEW MEXICO, herein referred to as "COUNTY", and the SANTA FE SOLID WASTE MANAGEMENT AGENCY, herein referred to as "AGENCY".

RECITALS

WHEREAS, the CITY and the COUNTY entered into the City/County Landfill First Amended Joint Powers Agreement on November 18, 1996, attached as Exhibit "A" and made part of this Amendment, and,

WHEREAS, Section 8.03 Amendment; Effect; Interpretation of the original Agreement allows amendments to be made by written agreement executed by each of the CITY and the COUNTY, and,

WHEREAS, it has been necessary to amend the City/County Landfill First Amended Joint Powers Agreement to reduce the number of board members serving on the Joint Powers Board, and,

NOW THEREFORE, it is agreed by the CITY, the COUNTY, and the AGENCY that the City/County Landfill First Amended Joint Powers Agreement be amended as follows:


1. Page 3, Section 1.02, delete paragraphs (a) and (b) in their entirety and insert the following in lieu thereof:
 - (a) Three members, each of whom shall be a City Councilor from a different elective district within the City, shall be appointed by the City's Mayor with the approval of the City Council, and each of which City members shall serve for such a period as may be determined from time to time by the Mayor with the approval of the City Council; and
 - (b) Three members, each of whom shall be a County Commissioner, appointed and approved by the Board of County Commissioners, and each of which County members shall serve for such a period as may be

determined and approved from time to time by the Board of County Commissioners.

Except for the above Amendment, the original City/County Landfill First Amended Joint Powers Agreement shall remain in full force and effect unless expressly amended or modified by the Amendment No.1.

IN WITNESS WHEREOF, the parties have set their hands and seal this day and year set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:



PAUL DURAN, COUNTY COMMISSIONER

DATE: 2-6-01

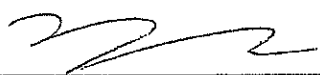
CITY OF SANTA FE, NEW MEXICO:



LARRY A. DELGADO, MAYOR

DATE: 2.2.2001

APPROVED AS TO FORM:



PETER DWYER, CITY ATTORNEY

SANTA FE COUNTY, NEW MEXICO:

Richard A. Anaya
RICHARD A. ANAYA, CHAIRMAN

DATE: 12/28/00

ATTEST:

Rebecca Bustamante 12/28/00
REBECCA BUSTAMANTE, SANTA FE COUNTY CLERK

(Seal)

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

by Steve Kopelman
STEVE KOPELMAN, SANTA FE COUNTY ATTORNEY

THIS AGREEMENT HAS BEEN APPROVED BY:

State of New Mexico

Department of Finance Administration

By: [Signature] 2/16/01

Date: 2-16-01

**SANTA FE COUNTY
LEGAL DEPARTMENT
MEMORANDUM**

To: The Board of County Commissioners
Katherine Miller, County Manager

From: Stephen C. Ross, County Attorney *SC R*

Date: January 17, 2013

Re: Public Hearing: Ordinance No. 2009-02 and the Low Income Property Tax Rebate

The County has adopted Ordinance No. 2009-02, which implemented the low income property tax rebate in Santa Fe County. Only one other County, Los Alamos County, has the rebate in place. Implementation of the rebate by the Board of County Commissioners was a material term of the Settlement Agreement and Mutual Release of Claims with the City of Santa Fe (commonly known as the "Annexation Agreement").

The low income property tax rebate permits persons whose modified gross income is less than that specified in NMSA 1978, Section 7-2-14.3 to claim the property tax rebate on the taxpayer's state income tax return:

LOW-INCOME TAXPAYER'S PROPERTY TAX REBATE TABLE

Taxpayer's Modified Gross Income Property Tax Rebate

Over	But Not Over	
\$ 0	8,000	75% of property tax liability
8,000	10,000	70% of property tax liability
10,000	12,000	65% of property tax liability
12,000	14,000	60% of property tax liability
14,000	16,000	55% of property tax liability
16,000	18,000	50% of property tax liability
18,000	20,000	45% of property tax liability
20,000	22,000	40% of property tax liability
22,000	24,000	35% of property tax liability.

The rebate is claimed on Form PIT-RC. If a taxpayer's modified gross income is zero, the taxpayer may claim a tax rebate in the amount shown in the first row of the table. The tax rebate cannot exceed three hundred fifty dollars per return and, if a return is filed separately that could have been filed jointly, the tax rebate cannot exceed one hundred

seventy-five dollars. A tax rebate will not be allowed for person whose modified gross income exceeds twenty-four thousand dollars.

The tax rebate may be deducted from the taxpayer's New Mexico income tax liability or, if the tax rebate exceeds the taxpayer's income tax liability, the excess will be refunded to the taxpayer.

Prior to December 31 of each year when the ordinance is in effect, the Taxation and Revenue Department must certify to the county the amount of the loss of income tax revenue to the State on account of the property tax rebates to taxpayers. The county is required to promptly promptly pay the amount certified. If a county fails to pay the amount certified within thirty days of the date of certification, the Department may enforce collection of the amount by action against the County and may withhold revenue distributions. The tax rebates paid by the County in recent years have increased to approximately \$500,000 since the rebate program was established in 2009.

The County is authorized to enact a mil levy to pay for the low income property tax rebate, with the consent of the electorate. Such a mil levy would first require that the Board of County Commissioners adopt a resolution provided for in NMSA 1978, Section 7-2-14.4(A) (2000). The resolution would propose the question for the voters whether a property tax at a rate not to exceed one dollar (\$1.00) per thousand dollars (\$1,000) of taxable value of property should be imposed for the purpose of providing the necessary funding for the property tax rebate for low income taxpayers.

An ordinance may only be repealed or repealed in the manner in which it was initially enacted. Thus, while there is no requirement for a biannual hearing on the continuation of the law income tax rebate once it is place, changes to the program (amendment or repeal of the ordinance, or initiation of a mil levy) do require a public hearing. The public hearing should address those topics, but any comments from the public on the tax rebate program should be heard.

A copy of Ordinance No. 2009-02 is attached. A notice has been placed in the newspaper giving notice of the public hearing, as required by Law.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2009-2

AN ORDINANCE CREATING THE LOW INCOME TAX REBATE;
ESTABLISHING THE TAX YEARS TO WHICH THE REBATE APPLIES;
PROVIDING FOR REPEAL FOLLOWING THE PUBLIC HEARING
PROVIDED FOR IN NMSA 1978, SECTION 7-2-14.3 (2003)

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY,
NEW MEXICO:

Section One. Creating the Low Income Tax Rebate. The low income tax rebate provided by NMSA 1978, Section 7-2-14.3 (2003) shall be and hereby is adopted in Santa Fe County for the 2009.

Section Two. Tax Years to Which Rebate is Applicable. The Low Income Tax Rebate created in Section 1 of this Ordinance shall apply to the 2009 tax year and to subsequent tax years until repealed as set forth in Section Three of this Ordinance.

Section Three. Repeal. Repeal of the Low Income Tax Rebate may be accomplished by ordinance, following the biannual public hearing described in NMSA 1978, Section 7-2-14.3.

PASSED, APPROVED AND ENACTED this 14th day of April, 2009, by the Board of County Commissioners of Santa Fe County.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By:

Mike Anaya
Mike Anaya, Chair

ATTEST

Valerie Espinoza
Valerie Espinoza, Santa Fe County Clerk



Approved As To Form:

Stephen C. Ross
Stephen C. Ross, County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 1

I Hereby Certify That This Instrument Was Filed for
Record On The 16TH Day Of April, 2009 at 09:22:26 AM
And Was Duly Recorded as Instrument # 1559323
Of The Records Of Santa Fe County.

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy _____ County Clerk, Santa Fe, NM

Low-Income Property Tax Rebate

NMSA 7-2-14.3

Criteria for eligibility:

- ✓ Principal place of residence in a county that has adopted an ordinance pursuant to Subsection G of 7-2-14.3;
- ✓ Not a dependent of another individual;
- ✓ Files a return, and
- ✓ Incurred a property tax liability on his principal place of residence in the taxable year.

Additional Criteria:

- ✓ Not an inmate of a public institution for more than six months during the taxable year;
- ✓ Was physically present in NM for at least six months during the taxable year for which the rebate is claimed, and
- ✓ Is eligible for the rebate as a low-income property taxpayer in accordance with the Low-Income Taxpayer's Property Tax Rebate Table (see next slide).

Low-Income Taxpayer's Property Tax Rebate Table

OVER	BUT NOT OVER	PROPERTY TAX REBATE
\$0		75% of property tax liability
8,000	\$8,000	70% of property tax liability
10,000	10,000	65% of property tax liability
12,000	12,000	60% of property tax liability
14,000	14,000	55% of property tax liability
16,000	16,000	50% of property tax liability
18,000	18,000	45% of property tax liability
20,000	20,000	40% of property tax liability
22,000	22,000	35% of property tax liability
	24,000	

Low-Income Property Tax Rebate

County Requirements:

- ✓ In January of every odd-numbered year in which a county does not have in effect an ordinance adopted, the BCC shall conduct a public hearing on the question of whether the property tax rebate benefiting low-income property taxpayers in the county should be made available through adoption of a county ordinance.
- ✓ SFC Ordinance 2009-02 created the low-income property tax rebate. The rebate was created and applied to tax year 2009 and to subsequent tax years until repealed.

Low-Income Property Tax Rebate

Future Assumptions based on County Assessor Data:

- The County currently has 30,480 potential properties that could receive the Head of Family exemption, and are currently not claiming the exemption.
- Of the 30,480 properties eligible for the Head of Family exemption, 18,740 properties are currently owned by owners with a NM mailing address.
- Based on the above information of 18,740 properties with a NM mailing address, the County could estimate future increases to the property tax rebate amount paid by the County annually.

Future Increases to the Low-Income Property Tax Rebate

If a % of 30, 480 potential properties claim the rebate, then the amount the County could possibly pay may increase to:

<u>% of Properties</u>	<u>Avg Rebate_(\$296)</u>	<u>Highest_(\$350)</u>
5% _(Current)	\$478,107 _(actual)	\$563,500
8%	\$721,766	\$853,440
10%	\$902,208	\$1,066,800

Low Income Property Tax Rebate History

LOW-INCOME PROPERTY TAX REBATE UPDATE

SANTA FE COUNTY						
LOW INCOME TAX REBATE SUMMARY						
FY 2011 - FY 2013						
Fiscal Year	Amount Paid	% of Increase	# of Residents	Average Rebate	Highest Rebate	Lowest Rebate
2013	\$ 478,106.75	14%	1610	\$ 296.96	\$ 350.00	\$ 4.00
2012	\$ 420,533.46	27%	1442	\$ 291.63	\$ 350.00	\$ 2.00
2011	\$ 331,102.22		1191	\$ 278.00		

Low-Income Property Tax Rebate

Considerations Moving Forward:

- ❖ Settlement agreement (Las Soleras) – County agreed to adopt an ordinance to provide a partial property tax rebate for low-income taxpayers who have their principal place of residence in the County.
- ❖ Growth to the annual amount the County is required to pay each year could continue to increase between 14% to 25%, or \$50,000 to \$80,000.