North Central Regional Transit District (NCRTD)

Resolution 2019-07

A RESOLUTION ADOPTING A POLICY REGARDING PUBLIC PARTICIPATION ON PROPOSED CHANGES TO DISTRICT SERVICES AND FARES

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Sections 73-25-1 through 73-25-19); and

WHEREAS, the NCRTD is a subdivision of the State of New Mexico with all the authority and duties of the same; and

WHEREAS, it is lawful for the NCRTD to charge fares for transit services (NMSA 1978, Section 73-25-6 (A) (4)); and

WHEREAS, the NCRTD pursuant to NMSA 1978, Section 73-25-5 the Board has the authority to impose fares, issue bonds and make system-wide changes to services; and

WHEREAS, pursuant to NMSA 1978, Section 73-25-5 "significant" changes to services for purposes of state law are defined as "route or schedule changes affecting more than twenty-five percent of a regional transit system"; and

WHEREAS, the NCRTD Board has the non-delegable authority to establish all policies regarding fees, tolls, rates or charges. (NMSA 1978, Section 73-25-5 (A) (4)); and

WHEREAS, the NCRTD is the recipient of certain federal funds provided for under 49 U.S.C. 5307; and

WHEREAS, the federal government requires Section 5307 grant recipients to adopt "a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation"; and,

WHEREAS, pursuant to NMSA 1978, Section 73-25-14:

"A. At least forty-five days prior to a meeting at which the board shall consider or take action on a proposal to request, establish, increase or decrease a rate, toll, fee or charge, the board shall deliver written notice of the meeting and proposal to a governmental unit where the proposed rate, toll, fee or charge will be imposed. The affected governmental unit shall be afforded a reasonable opportunity for comment, either at a regular meeting of the board or at a special meeting convened to receive comment.

"B. The board shall consider any comments received and shall take appropriate action thereon at a subsequent meeting."

WHEREAS, the NCRTD Board has determined that it is in the best interest of the District to adopt a policy regarding public participation on proposed changes to District services and fares.
B. At least seven business days prior to a regularly scheduled meeting, the board shall make available to the public written or electronic notice of the time and agenda of the meeting. The board shall designate during each meeting a public comment period and shall offer the public an opportunity to comment.; and,

WHEREAS, pursuant to NMSA 1978, Section 73-25-15:

"A. At least forty-five days prior to the imposition of or an increase in a rate, toll, fee or charge or prior to the issuance of bonds as authorized in the Regional Transit District Act, a notice specifying the amount of the fee, toll, rate or charge and its proposed duration or the value and number of bonds to be issued shall be sent to the commission and to the taxation and revenue department.

B. The commission shall file an annual report with the state auditor concerning the activities of all active districts. The report shall detail how many districts have been created, describe their boundaries and specify the regional transit systems that are being provided and how they are being financed."; and,

WHEREAS, the Board deems it proper to reconcile the state and federal requirements for public comment on changes to fares and services into a single uniform process.

NOW THEREFORE BE IT RESOLVED THAT, the North Central Regional Transit District Board of Directors hereby adopts the following "Policy Regarding Public Participation on Proposed Changes to District Services and Fares."

NORTH CENTRAL REGIONAL TRANSIT DISTRICT POLICY REGARDING PUBLIC PARTICIPATION ON PROPOSED CHANGES TO DISTRICT SERVICES AND FARES

1.1 Introduction

The North Central Regional Transit District (NCRTD) is committed to providing opportunities for public participation on matters that impact the communities served by the District.

Under state law the District is required to allow public comment at Board meetings generally. The District is also required to solicit comment from governmental units (Cities, Counties and Pueblos) impacted by proposed "increases or decreases" on charges by the District. If the change is an increase in fees then the District is further required to report the change to both the State Transportation Commission and the Taxation and Revenue Department.

Also, under state law, the Board is responsible for approving "significant" service changes (changes affecting more than twenty-five percent of the regional transit system) and cannot delegate these decisions to staff. There is no specific state law requirement for solicitation of public comment on service changes but the changes contemplated include increases in services, reduction in service or major alterations to service.

Federal law requires the District to adopt its own process for soliciting and consider public comments but only before "raising a fare" or carrying out a "major reduction of transportation." This is less comprehensive than the state requirements that also cover lowering fares and significant changes that might include increasing or altering the service.
In order to comply with both federal and state laws in a uniform and consistent manner the District has chosen to establish this Policy Regarding Public Participation on Proposed Changes to District Services and Fares (the "Policy") with standards that meet and exceed both federal and state requirements.

1.2 Definitions

Exemptions, shall mean service changes that are not subject to the requirements of this policy due to

- Discontinuance of Temporary Services, Demonstration Services and Pilot Projects that do not have identified sources of recurring funding
- Initiation/Discontinuance of Promotional Fares
- Disasters or Emergency Operations that may force the suspension of transit services or reallocation of transit resources
- Temporary Route Detours

Major Service Change shall include any "major reduction" for purposes of compliance with Section 5307 grant compliance and shall mean a change to any permanent (non-pilot) service which decreases the cost allocation for an existing route by 25% or more.

Minor Service Change shall mean any changes to service that are not Major Service Changes or Significant Service Changes.

Significant Service Change shall mean route or schedule changes affecting more than twenty-five percent of the District's system as measured by the ratio of the dollar cost of the change compared to the dollar cost for all routes and district funded services combined.

1.3 Scope of Policy

This Policy is intended to complement the NCRTD Title VI Policy, any NCRTD/NMDOT MOA governing the operations and the notice; opportunity for comment requirements of the New Mexico Regional Transit District Act, NMSA 1978, Sections 73-25-14 and 15. This policy is not intended to supersede NCRTD's Title VI policy nor the notice; opportunity for comment requirements of the New Mexico Regional Transit District Act, NMSA 1978, Sections 73-25-14 and 15.

Nothing in this policy shall be interpreted or deemed to limit the authority of the District to seek and obtain additional public input through its regular Board meetings, its planning processes or its work in conjunction with any Municipal Planning Organization (MPO) or any other public entity.

The NCRTD may rely upon the relevant MPO's public participation process for purposes of compliance with Section 5307 requirements. Any additional public participation under this Policy not required by law or as a condition of federal grant requirements shall be in the District's sole discretion.

1.4 Solicitation and Consideration of Public Comment

The NCRTD shall solicit and consider public comments prior to raising fares or implementing a Major or Significant Service Change. Solicitation of comments shall be at two
or more times and two or more places in the community directly impacted by the proposed service change.

1.5 Solicitation and Consideration of Comments from Public Bodies

At least forty-five days prior to a meeting at which the District considers or takes action on a proposal to request, establish, increase or decrease a rate, toll, fee or charge, the Board shall deliver written notice of the meeting and proposal to a governmental unit where the proposed rate, toll, fee or charge will be imposed. The affected governmental unit shall be afforded a reasonable opportunity for comment, either at a regular meeting of the Board or at a special meeting convened to receive comment.

1.6 Solicitation and Consideration of Comments from State

At least forty-five days prior to the imposition of or an increase in a rate, toll, fee or charge or prior to the issuance of bonds as authorized in the Regional Transit District Act, a notice specifying the amount of the fee, toll, rate or charge and its proposed duration or the value and number of bonds to be issued shall be sent to the commission and to the taxation and revenue department.

1.7 Public Meetings

At least one public meeting by the NCRTD shall be conducted prior to raising fares or the implementation of Major or Significant Service Change. Notice of the meeting time and place shall be given by publication on the NCRTD's website and through such other and additional notice as is reasonably calculated to solicit maximum participation by affected community members. The notice shall generally describe the nature of the proposed action, shall state that public comments will be accepted prior to and at the meeting, shall provide an address for the submission of written comments prior to the meeting, and shall describe the means of obtaining and/or the location of additional information about the proposed action. The meeting shall be conducted in accordance with all applicable laws, regulations and NCRTD procedures. Mailed notices shall also be given to any persons who have filed written requests with the NCRTD for such notices. The NCRTD may provide additional public notice by posting the public notice on transit vehicles or transit stops and other locations expected to be viewed by users of transit services. NCRTD may also at its discretion conduct one or more public workshops prior to the public meeting to inform transit users and the general public of proposed Major or Significant Service Changes and to accept and consider public comment on the proposed changes.

1.8 Consideration of Public Comments

A staff, employee or contractor shall be assigned by the Executive Director to take notes on all public comments received which shall then be summarized and reported to the NCRTD Board of Directors during a regularly scheduled Board meeting. Staff analysis will be prepared to accompany the summary of comments. Additional public comments will be accepted during the Board meeting. The Board of Directors will consider and, if necessary, act on the comments and staff analysis prior to raising fares or implementing a Major or Significant Service Change.

PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 11TH DAY OF JANUARY 2019.
Daniel Barrone, NCRTD Chair

Approved as to form:

Peter Dwyer, Legal Counsel