NORTH CENTRAL REGIONAL TRANSIT DISTRICT
BOARD MEETING AGENDA
April 8, 2016
9:00 AM - 1:00 PM
Pueblo of Tesuque
Camel Rock Casino Show Room

CALL TO ORDER:

1. PLEDGE OF ALLEGIANCE
2. MOMENT OF SILENCE
3. ROLL CALL
4. INTRODUCTIONS
5. APPROVAL OF AGENDA
6. APPROVAL OF MINUTES – March 4, 2016
7. PUBLIC COMMENTS

PRESENTATION ITEMS:

A. Introduction of Annette Granillo, Transit and Facilities Operations Director
   Sponsor: Anthony J. Mortillaro, Executive Director

B. Recognition of Leo Valencia, Driver II – NMTA Award at the Annual Road-eo,
   First Place for the Cutaway Bus
   Sponsor: Anthony J. Mortillaro, Executive Director

ACTION ITEMS:

C. Discussion and Consideration of Election of Officers
   Sponsor: Anthony J. Mortillaro, Executive Director.
   Attachment.

D. Discussion and Consideration of NCRTD Board Attendance Report, April 2015 – March 2016
   Sponsor: Anthony J. Mortillaro, Executive Director.
   Attachment.

E. Discussion and Consideration of Memorandum of Understanding (MOU) Between Los Alamos County (LAC) and North Central Regional Transit District (NCRTD)
   Sponsor: Anthony J. Mortillaro, Executive Director.
   Attachment
F. **Discussion and Consideration of Resolution No. 2015-14(R) Re-Adopting FY2016 Budget.**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Troy Bingham, Finance Director.  
   Attachment*

G. **Discussion and Approval of Award of Contract – Financial Audit Services**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Troy Bingham, Finance Director.  
   Attachment*

H. **Discussion and Consideration of Resolution 2016-11 Authorizing Federal Funding Through the FFY2016 Tribal Transportation Program for Operating and Capital for New Transit Service to Jicarilla and Dulce and Future Transit Projects**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Stacey McGuire, Planning, Projects and Grants Manager.  
   Attachment*

I. **Discussion and Approval of Memorandum of Agreement (MOA) between NCRTD and member Pueblos for Federal Fiscal Year (FFY) 2015 & 2016 Tribal Transit Program (TTP) §5311(c) Funds**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Troy Bingham, Finance Director.  
   Attachment*

J. **Discussion and Consideration of Resolution 2016-12 Authorizing the NCRTD Staff to apply for Federal funding through the FFY2016 TIGER grant program for the following project: a Maintenance Facility, Wash Bay, and Fueling Station**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Stacey McGuire, Planning, Projects and Grants Manager.  
   Attachment*

K. **Discussion and Consideration of Resolution 2016-13 Authorizing NCRTD Staff to apply for Non-Rural Operational, Administrative and Capital Funding for Routes and Transit Services Deemed Non-Rural in Nature, Section 5307**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Stacey McGuire, Planning, Projects and Grants Manager.  
   Attachment*

L. **Discussion and Consideration of 255 Mountain Trail Pilot Route, Board Direction on Continuation of Pilot Route and Proposed Modifications**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Stacey McGuire, Planning, Projects and Grants Manager.  
   Attachment*

M. **Discussion and Consideration of Re-approval of Award of Bid Construction- ADA-Compliance of Bus Stops**  
   *Sponsor: Anthony J. Mortillaro, Executive Director and Troy Bingham, Finance Director.  
   Attachment*
DISCUSSION ITEMS:

N. Financial Report February for 2016:
   Sponsor: Anthony J. Mortillaro, Executive Director and Troy Bingham, Finance Director.
   Attachment.

O. Finance Subcommittee Report:
   Sponsor: Chair Pete Sheehey and Anthony J. Mortillaro, Executive Director.
   Minutes from January 22, 2016

P. Tribal Subcommittee Report:
   Sponsor: Chair Charles Dorame and Anthony J. Mortillaro, Executive Director.
   None

Q. Executive Report and Comments from the Executive Director:
   1.) Executive Report for March 2016
   2.) Performance Measures for February 2016
   3.) Ridership Report for February 2016

MATTERS FROM THE BOARD

MISCELLANEOUS

ADJOURN

NEXT BOARD MEETING: May 6, 2016 at 9:00 a.m.

If you are an individual with a disability who is in need of a reader, amplifier, qualified Sign Language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing of the meeting, please contact the NCRTD Executive Assistant at 505-629-4702 at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.
CALL TO ORDER:

A regular meeting of the North Central Regional Transit District Board was called to order on the above date by Mayor Daniel Barrone, Chair, at 9:11 a.m. at the Jim West Regional Transit Center, Española, New Mexico.

1. Pledge of Allegiance

2. Moment of Silence

3. Roll Call

Ms. Trujillo called the roll and it indicated the presence of a quorum as follows:

<table>
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<tr>
<th>Members Present:</th>
<th>Elected Members</th>
<th>Alternate Designees</th>
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<tbody>
<tr>
<td>Los Alamos County</td>
<td>Councilor Pete Sheehy</td>
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<td>Rio Arriba County</td>
<td>Commissioner Alex Naranjo</td>
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<td>Taos County</td>
<td>Commissioner Jim Fambro</td>
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<td>Town of Taos</td>
<td>Mayor Daniel Barrone, Chair</td>
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<td>Santa Fe County</td>
<td>Commissioner Miguel Chávez</td>
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<td>Nambé Pueblo</td>
<td>Absent</td>
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<td>Ohkay Owingeh</td>
<td>Christy Van Buren</td>
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<td>Pojoaque Pueblo</td>
<td>Councilman James Rivera</td>
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<td>Santa Clara Pueblo</td>
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<td>Ms. Mary Lou Valério</td>
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4. INTRODUCTIONS

Those present introduced themselves to the group.

5. APPROVAL OF AGENDA

Councilor Sheehy moved to approve the Agenda as presented Commissioner Fambro seconded the motion and it passed by unanimous (12-0) roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County and Town of Taos voting in favor and none voting against. Tesuque Pueblo was not present for the vote.

6. APPROVAL OF MINUTES – February 5, 2016
Commissioner Chávez moved to approve the minutes of February 5, 2016 as submitted. Commissioner Naranjo seconded the motion and it passed by unanimous (11-0-1) roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County and Town of Taos voting in favor and none voting against. City of Santa Fe abstained and Tesuque Pueblo was not present for the vote.

7. PUBLIC COMMENTS

Mr. Alex Armijo, Deputy Director for the City of Santa Fe employees’ union said he read an article in the newspaper today that possibly NCRTD is looking into operating the bus system for the City of Santa Fé. The union has 100 employees with Santa Fé Trails and he hoped the Board’s decision will be made with input from the union. “We would like to keep the CBA intact. Please keep us apprised of the progress. We would like input into it.”

Our CBA is protected under the Labor Relations Board and includes issues around wages and time off, etc.

Commissioner Naranjo said he read that article too but didn’t know what the Board will do. He assured Mr. Armijo that the Board will include the union.

Mr. Armijo said, “We appreciate your service to the community and support of union employees.”

There were no other speakers from the public.

PRESENTATION ITEMS:

A. Above and Beyond Quarterly Award

Ms. Nicky Moyer, who works in the Taos Office, was selected to receive the award. Mr. Mortillaro read the award to the Board.

ACTION ITEMS:

B. Discussion and Consideration of Resolution No. 2016-08 Adopting a Veterans “Fare Free” on Fare Service Routes

Mr. Mortillaro noted that at our last meeting, Commissioner Chávez had requested that we explore this service for veterans and the Finance Subcommittee discussed it.

Mr. Bingham said the NCRTD is predominantly fare free and has only four routes with fares. He described those routes. So only these four routes would be affected. He didn’t expect vets to be on the Pojoaque school route. The Veteran Rolls in our service area was included in the packet.

Gov. Dorame arrived at 9:28 a.m.

Mr. Bingham said $40,759 is the anticipated fare revenue for 2016. Santa Fé Mountain Route is the
only one not federally funded. It will run only one more month and $1,317 would be the maximum possible impact this year and the Board would have to keep it in mind for next year. So the only impact is fewer fares. We are already looking at a shortfall in fares, so it is worth doing.

Councilman Rivera said that he is a veteran but doesn’t ride the bus. The only ID he has as a vet is on his driver’s license.

Mr. Bingham didn’t see any issue with it.

Commissioner Chávez thanked Mr. Bingham and staff for the work on this and the Finance Subcommittee for discussing it.

Commissioner Chávez moved to support Resolution No. 2016-08 Adopting a Veterans “Fare Free” on Fare Service Routes. Chair Barrone seconded and asked if Commissioner Chávez would include driver’s license identification in it. Commissioner Chávez agreed.

Councilor Sheehey said he would support it for this small favor. The cost is minimal. In the future, if we are able to obtain a waiver we might want to revisit it because fares are an important source of revenue. It could jump to $10,000 or more with that waiver.

The motion passed on a 13-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against.

C. Discussion and Consideration of Resolution No. 2016-09 Adopting the NCRTD’s Title VI Program

Mr. Mortillaro the Title VI Program is a requirement for the RTD.

Ms. McGuire explained the program, referring to page 22, in the packet. Essentially, this is a format change from the previous version. With the possibility of a direct recipient, it is in narrative format and the content is very similar. We go through background and requirements. Page 28 is the approval page. It has limited English accommodation.

Page 47 is appendix B that gives the notices in Spanish, etc. and how to talk to the District with complaints.

Gov. Dorame asked who would contact the tribes for two different dialects.

Mr. Dwyer said he became aware recently that tribes are exempt from Title VI but if there was a need for translation, the District could pay for a translator.

Commissioner Chávez asked Gov. Dorame if he would want Staff to work on that. The Board could direct Staff to work on it.

Gov. Dorame thought there should be someone to go and talk to.
Commissioner Chávez asked if the Board could direct that to the Tribal Subcommittee.

Gov. Dorame said the Secretary of State has an interpreter. Back in the 1990’s, he was a translator to help voters use the voting machine. There are seven different dialects spoken in New Mexico. We found we had to have a picture of the candidate. He thought in the long run, the District would avoid anything negative if someone came to the Board.

Mr. Mortillaro said page 47 talks about rights. He thought they could get that section put in Tewa language and put it in our buses as well.

Gov. Dorame said there is Tewa and Tiwa among our pueblos.

Mr. Mortillaro committed to get that section translated into Tewa and Tiwa.

Commissioner Chávez moved to approve Resolution No. 2016-09 Adopting the NCRTD’s Title VI Program. Commissioner Fambro seconded the motion which passed on a 13-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against.

D. Discussion and Consideration of Award of Contract – On-Call Engineering Services

Mr. Mortillaro said there are occasions that require engineering services and he found the best way is to go for on-call services as needed. Mr. Bingham is our procurement officer and can discuss the proposal for it.

Mr. Bingham referred to page 57. We don’t know four years into the future what will occur. It is speculation so we leave this open ended. It could be lots of work or no work at all. The TAP award was made last month. The next is a backup generator; then finishing our transition plan with Taos. We didn’t have those buildings in our original plan. This engineering firm would be used for design and serve as contract manager for the project. The District put out a 90-page RFP using state guidelines. Wilson & Company filed a bid and they are very good and well qualified engineering firm and have experience with DOT. So he felt that would be an excellent contract for the next 4 years. He is still negotiating on it.

Ms. Van Buren asked, as an open-ended contract, if it will only specify the ones that are funded.

Mr. Bingham agreed. They will have a “task order” and have three right now that are funded.

Ms. Van Buren reasoned that is why there is no amount in it.

Mr. Bingham agreed.

Councilor Sheehey asked if there is some threshold value that would require the task order to come for Board approval.
Mr. Bingham said the three projects today would total over $100,000.

Mr. Dwyer pointed out that any change to the budget would have to have Board approval.

Mr. Pino asked if there is no cap on this.

Mr. Dwyer agreed but it has a ten-day termination also. So it could be canceled. Mr. Mortillaro would approve but if it is a new project, it would come here to the Board. The only one is the ADA bus stop improvements. The other possible project is the maintenance building.

Ms. Valério asked if it is okay with only response.

Mr. Bingham said there was another inquiry and he followed up on it but they didn’t follow through.

Commissioner Chávez moved to approve the Award of Contract – On-Call Engineering Services with Wilson & Company. Councilman Rivera seconded the motion which passed on a 12-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against. Rio Arriba County was not present for the vote.

E. Discussion and Approval of Award of Contract Modification to Avail Technologies, Inc. For the Taos Chile Line Buses

Mr. Mortillaro explained that when the District acquired the Taos Chile Line, it did not have the ITS system and the District had ITS funds available (since 2012). He also acknowledged that DOT has worked with NCRTD and were generous enough to provide funding at 80/20 instead of 50/50. The ITS will be more sophisticated than the one here. If will reflect what we wanted to do with the entire system. It will cover nine vehicles.

Mr. Bingham explained the contract which is shown on page 184. The cost is $202,747 and 80% is from FTA and we will cover the rest.

Page 193 had the actual quote and he tied each item back to compare with the City of Los Alamos system. We are in year 3 of 7 years. Prices will go up in the future. So as we implement new buses, it will guarantee the same price in the contract.

Mr. Mortillaro added that some of these costs are being paid in future years.

Mr. Bingham went through the matrix and explained what it showed.

Councilor Sheehey asked if the 80/20 split extends through the life of the contract.

Mr. Mortillaro said it expires in September so we have to get it encumbered and spent before then.

Mr. Bingham said the grant is for $202,000 and the rest is for the District to cover.
Commissioner Chávez asked if the maintenance fee is non-negotiable.

Mr. Mortillaro said that was discussed in detail with them. The level of technology being implemented is double what we have now. The existing system has automatic location service and it all ties back into the software and the computers back here. We are doing automatic passenger counters so our drivers don’t have to manually count them. This also has voice announcements. That is an ADA requirement and with drivers, it isn’t perfect.

Ms. McGuire said the logic unit is where the maintenance fees apply.

Commissioner Chávez asked if that will be done with other new buses.

Mr. Mortillaro agreed. It also reduces staff time on reporting.

Ms. McGuire - we can submit those reports to NTD for ridership tallies. We have three versions done on it now. So this will really reduce staff hours on it.

Mr. Mortillaro added that updates come automatically.

Mr. Pino asked if this quote constitutes a contract or is preliminary.

Mr. Dwyer said it is a modification to an existing contract. These are very challenging contracts because we get locked into a system. But nobody else can do the maintenance on the system. They own the proprietary system. Software contracts and copier contracts all have the same problems. It isn’t sole source but there is no one else who can do it.

Mr. Mortillaro reminded the Board that in 2013, we went through an extensive RFP in cooperation with Los Alamos County and did a joint procurement. There were 5 bidders at the time. The vendor was chosen and they were asked to provide for bid alternates. So we verified that the prices were the same as in 2013. That contract provided for additional procurements and guaranteed not to change in price.

Commissioner Fambro said it sounds like in 2013, everyone worked to find the best system and it is working for us.

Mr. Bingham agreed.

Ms. Van Buren asked if that equipment could be used on a new bus. Mr. Bingham agreed.

Councilor Ring moved to approve the Award of Contract Modification to Avail Technologies, Inc. For the Taos Chile Line Buses. Commissioner Fambro seconded the motion which passed on a 13-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against.

F. Discussion and Consideration of Resolution 2016-Authorizing NCRTD Staff to apply for Federal funding through the FFY 2016 Inclusive Planning Impact Grant Program (to Improve Transit Options for the Elderly and/or Disabled
Ms. McGuire explained that page 196 showed the funding opportunity for the planning grant to encourage and develop inclusive transportation system planning to include elderly and/or disabled persons. The maximum grant is $86,000 and they plan to give out eight grants. No match is required. The deadline is March 18. The program calls out a required advisory committee that includes elderly, disabled, etc. The resolution is on page 198. Staff recommended to approve the resolution on 198 and request the Board to allow staff to apply for it.

Commissioner Chávez thanked staff for going for a no-match grant.

Ms. McGuire said they are very competitive. She didn’t know how many they expect to receive. They do have discretion to award less than $86,000. The District has not had such an advisory committee before so the District could look a little more at 5310 funding. Given our service area, tribal will be included and any senior service providers, tribal or non-tribal.

Gov. Dorame said they are presently funded through the State for vehicles and he wondered how this will relate with this funding. That could be another resource.

Ms. McGuire agreed. We have been here over ten years and getting a good handle on operations and next level would be to coordinate with 5310 providers and increase ridership in general.

Commissioner Chávez asked if with this, the District could also outreach with our community service departments.

Ms. McGuire said she could but she has a tight deadline. We first need commitment from our partners. Then we could move toward working with local groups.

Commissioner Chávez thought they could be part of the advisory committee make-up.

Ms. McGuire agreed. It has to have an elderly person, possibly also a rider and a disabled individual who would stay with the project throughout the year. And then a transportation agency partner.

Commissioner Chávez moved to approve Resolution 2016-Authorizing NCRTD Staff to apply for Federal funding through the FFY 2016 Inclusive Planning Impact Grant Program (to Improve Transit Options for the Elderly and/or Disabled. Councilman Rivera seconded the motion which passed on a 13-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against.

G. Discussion and Consideration for Board Direction Related to Weekend Special Event Service as a Component of the La Cienega 6-Month Pilot Route

Mr. Mortillaro said the FY 16 budget includes a pilot route for La Cienega and also part of our service update in 2014. This is a status report and a request for service of two special events that were not initially contemplated in our service plan.
Ms. McGuire said this is a pilot project in the service plan update and estimated $114,000 for a six-month pilot and is called out with four to six weekday routes.

The first is Sunrise, on Los Pinos at North Estrellas - better location. We have worked on this for a while with weekly discussions, a ride along for feasibility of vehicles. They received feedback from citizens in a public meeting at La Cienega. That is how this schedule was derived. Mostly it is access to essential services.

Las Golondrinas was well represented. The discussion on the topic of weekend service arose and she heard their greatest needs for upcoming events. They are the Santa Fe Wine Festival in July and Viva Mexico on July 16-17. With the Wine Festival, if the District could mitigate or reduce DWI, since people are going there to drink wine, it seemed to make sense.

They also talked about the opportunity to mitigate traffic issues. They have a big parking lot but not enough for 2,500 folks. The weekday schedule is not representative of a weekend schedule. The route might be from 599 or maybe Santa Fe Place. This is a good example of a limited service route. Maybe one long line for downtown tourists at hotels and some along Cerrillos road with maybe a mid-day. Also a short line from 599 to the event.

She is confident that the two events could be done within the expected costs. Page 225 is the map. They could have a park and ride type service for the community because there is not room for side of road parking.

Commissioner Chávez asked if they would have bike racks. Ms. McGuire agreed.

Commissioner Chávez moved to approve Weekend Special Event Service as a Component of the La Cienega 6-Month Pilot Route. Councilman Rivera seconded the motion.

Councilman Rivera said this area is progressive on growth. He asked why Airport to 599 was left out. This six-month trial run goes way beyond just two events. There is a lot of activity in that area now. He was just curious why Airport Road isn’t part of it.

Ms. McGuire said they discussed the challenge of Airport Road. To get the bus turned around out there needs more room. They looked at the population densities and desires of the community and most requests didn’t come from that area (Airport Road).

Commissioner Chávez said this is outside of Commission District 2. So Commissioner Anaya was more interested than he was. And the interest is primarily La Cienega and La Cieneguilla. He hoped the pilot is effective and the District can keep it in place. It also has a seamless interface with Santa Fe Trails. He was surprised there was this much support but was glad it worked out this way and keep it for the future. He was also surprised they could get any bus stops in there.

Councilor Ring asked if she had a projected number on the trial ridership.

Ms. McGuire said she didn’t but 5-10 riders daily would be very positive to see over the next six months. It is difficult to deal with lifeline riders and asked how they would measure that quality of life benefit.
Gov. Dorame asked if the County Commission approved this or if they were approached.

Commissioner Chávez said it was a request from Commissioner Anaya.

Mr. Mortillaro reminded the Board that every year, Santa Fé County, City of Santa Fé and Los Alamos County submit their requests to the Board.

Gov. Dorame said he represented his tribe and tries to do his best to consider everyone’s boundaries and he didn’t want to give the impression that he was not for the Board’s progress. With La Cienega when you go into those communities, your presence might not be wanted. Also that area is sacred to our people. The community sits right in the middle of one of the most sacred parts. He said that because this Board needs to be educated on the sacred places. It was easier ten years ago but now is going beyond and into areas the tribes regard as sacred. We are somewhat limited in what we can say and if you have questions, just go to the tribe. He knew some of the people who live there are also concerned. Tesuque is open and tries to communicate with others.

Commissioner Chávez said in adding these 2 weekends, he wanted to be sensitive to Gov. Dorame’ concerns.

Ms. McGuire said a 14-passenger bus is to be used for the pilot program. The event service would be a bigger bus but only going directly to the event.

Commissioner Chávez asked about the feedback.

Ms. McGuire said 16 people showed up for the meeting and were pleased with the proposal. One thing they talked about was hopefully to reduce the number of cars there.

Commissioner Chávez asked if the service plan has to be amended now.

Mr. Mortillaro said no. The only thing the Board is asked to consider is whether to add those 2 events. The rest has been approved.

Commissioner Chávez asked if the driver can accept an inebriated person.

Ms. McGuire said it depends on their behavior.

The motion passed on a 12-0-1 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, and Town of Taos voting in favor and none voting against. Tesuque Pueblo abstained.

H. Discussion and Consideration of FY 2016 Mid-Year Financial Summary

Mr. Mortillaro commented that this was presented last time without a quorum.

Ms. Van Buren moved to accept the FY 2016 Mid-Year Financial Summary. Councilor Ring
seconded the motion and it passed on a 13-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against.

I. Discussion and Consideration of Investment of District Funds Summary

Mr. Bingham presented the Investment of District Funds Summary and recommendations.

Commissioner Chávez moved to approve the Investment Report as presented. Councilman Rivera seconded the motion and it passed on a 11-0-1 roll call vote with Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, and Town of Taos voting in favor and none voting against. Tesuque Pueblo abstained and Town of Edgewood was out of the room during the vote.

J. Discussion and Consideration of a Letter of Intent Regarding the Exploration of the Santa Fe Trails Transit System (City) Consolidation into the North Central Regional Transit District

Mr. Mortillaro announced he was contacted by the City of Santa Fé for possible consolidation with Santa Fé Trails. He brought it for discussion to explore consolidation. He thought it best to explain what the intent is at this stage.

The City at this point has not had an opportunity to reply to the letter of intent. They got it on Monday. If the Board approves the concept, he would ask the Board to allow the Chair to sign the letter of intent and allow some modifications without having to bring it back unless they are substantial. Most members are aware of the previous consolidation with Taos and even earlier with Española.

Basically, the letter of intent memorializes the fact that both entities are interested (page 244). The District contributes money for the Santa Fé Trails that is approved annually by the Board. Currently, Santa Fé has a 1/4% GRT tax and that changes by year also. The intent here is that District would request 5204 funds for analysis of the possibility of consolidation. That would require a 20% match on our part but the request would have asked that the 20% be shared with the City. Each would contribute $15,000 to acquire the federal funds. The District would comply with DOT requirements. And jointly manage the service. And if consolidation is approved to move forward. The form of government for us would not change.

We would go forward in good faith. Pretty straightforward.

Commissioner Naranjo moved to authorize the Chair to sign the letter of intent. Commissioner Chávez seconded the motion.

Councilman Rivera pointed out that the NCRTD was based on consolidating the transit agencies. This is probably the biggest one. With the professionalism of the staff this is a gem to put on as a catchment for NCRTD.

Commissioner Chávez asked if this would this change our taxing authority in any way. We would have to start soon to keep that in place.
Mr. Mortillaro said irrespective of consolidation efforts, the District needs to pursue removal of the GRT sunset clause. This doesn’t help or hinder that in any way. It is the same with the Rail Runner. It is in everyone’s interest to get the sunset removed. We will try in 2018 and if not, then 2020. Everyone relies on that tax to provide the transit services.

Commissioner Chávez asked Mr. Pino how many employees Santa Fe Trails has for dispatch and drivers.

Mr. Pino deferred to Ms. Granillo as the employees are all union members. Our drivers are union members.

Ms. Granillo said there are 126 employees but not all are union employees - about 15 are not and the rest are.

Mr. Mortillaro said the NCRTD is represented by the Teamsters for drivers and dispatchers with 44 full time and 48 total.

Ms. Granillo said none are at-will employees right now. We have two vacancies.

Councilor Sheehey said the $915,000 we turn over is only one part of their budget. He asked if we could get a commitment that the money would be part of the contribution.

Mr. Dwyer agreed. That and many other issues would be addressed. Mr. Harris could probably tell us about DOT input.

Mr. Mortillaro said the effort has to look at the long term with current assets and future needs. We don’t want to go into this without considering all the financial implications not just for today and tomorrow. It also has to look at how things could be improved with service enhancements with coordination.

Councilor Sheehy said this is a huge step and would more than double the operations of NCRTD. Part of it should include audited financial statements to tell us exactly what it would cost.

Mr. David Harris didn’t have much to add that wasn’t stated already. It is a working out of the issues and consolidating and integrating into NCRTD operations and would be brought back to this Board and City Council to agree or disagree. Obviously ongoing funding is part of that. This letter of intent is a good first step to continue this discussion and exploration.

Mr. Pino clarified for the record that the City Manager has been charged to explore operations and this has not been vetted by City Council yet.

Mr. Dwyer said the motion is fine and he hoped it conveys the message of a $15,000 commitment as a 10% match for the grant. But City Staff, attorneys and Council may want to make changes in it. So there has to be some leeway for Chair Barrone to work with the City so that we could still negotiate further.

Councilman Rivera asked if in the past consolidations for the district, there were any challenges from employees.
Mr. Mortillaro said there were none that he was aware of for Española and for Taos. We basically took it lock, stock, and barrel and those employees came over to the District. With Taos, we offered all employees employment. One employee was also part of Public Works and he chose to stay there. One other had philosophical differences. Otherwise, the rest came over and most are still employed by the District.

Councilman Rivera said with Española, one of them had tenure there and had to go back into six-month probation.

Mr. Mortillaro said they had a similar discussion with Town of Taos and ended up finding a middle path to it. We don’t know any of those employees. That is why we asked for six-month probationary period. But it wouldn’t allow us to use their personnel records. So we asked them to allow access and if granted, lowered probation to 3 months. Both sides felt that was appropriate. He thought it worked out well. Only one employee in that time period encountered difficulties but everyone else passed that period. They kept their seniority dates and we recognized those for calculation of vacation benefits and retirement. Taos was slightly different because of the union argument for bidding routes. We will reconsider that for the upcoming year.

We also want to explore a bidding process based on regional routes rather than system-wide. As we grow and move forward, we have the experience to work them out. We have a great relationship with the Teamsters and are working everything out that arises.

Commissioner Chávez asked what the City’s time line is.

Mr. Pino expected it to get an approval toward the end of March or early April. The budget meetings are in early April. He supposed it could happen during budget discussions. It is voted on by Council in early May.

Commissioner Fambro had heard some concerns at the meetings. Some were valid concerns and came about. But he saw the employees daily and thought it all worked far smoother than ever perceived. The negotiation was fair and equitable. All concerns were addressed.

Mr. Dwyer understood that this is at the request of the City of Santa Fe and permission of NMDOT to proceed to discussions. He hoped the City would see it not as a merger but a feasibility of merger and hoped $15,000 would not be seen as a block. The decision to consolidate is a much bigger issue.

Public comment -

Mr. Colin Messer, member of City of Santa Fe Transit Advisory Board, thought the benefits for consolidation are a good idea. Regional makes sense. However, the City would need some compensation for their assets. The maintenance facility staff are concerned that the City is not equipped to handle the District fleet. Santa Fe is in the process of serious investment in CNG. Also, the City is not finished with the south transfer station or of Sheridan. The quarter percent needs to be discussed in detail and how that would fund things.

He was also concerned about the distribution of voting on the board. Urban transit is very different from rural transit and how it is dealt with on the Board and loss of local control are issues.
The motion passed on a 13-0 roll call vote with Town of Edgewood, Los Alamos County, Ohkay Owingeh, Pojoaque Pueblo, Rio Arriba County, City of Española, City of Santa Fe, Santa Fe County, San Ildefonso Pueblo, Santa Clara Pueblo, Taos County, Town of Taos and Tesuque Pueblo voting in favor and none voting against.

DISCUSSION ITEMS

K. Financial Report January for 2015:

Mr. Bingham referred to page 246 for his report as of the end of January, 2016. Revenues are exceeding expenses and there are delays in reimbursements. He reviewed the county GRT receipts. Los Alamos County is exceeding budget. Rio Arriba was right on the budget and Santa Fé was a little below expectations; Taos exceeds budget at 118%. The total on 253 is exactly the same as last December. Grant revenues were shown on page 254 and relate mostly to capital. We are down six buses now and hopefully receiving the new buses soon. Salaries are still lagging through attrition and hope to catch up. Vehicle repairs are at 74%. They still have aging vehicles. 103% was spent on maintenance. Fuel is down a lot.

Mr. Bingham went to a breakdown by administration, by source, by capital expenses. He said they won’t be able to spend all of our capital funds by the end of the fiscal year.

There were no questions

L. Finance Subcommittee Report

Councilor Sheehey said the Finance Committee saw the results here as Mr. Bingham went over them so they had no more to add today.

Commissioner Naranjo left the meeting at 11:28 a.m.

M. Tribal Subcommittee Report

Mr. Mortillaro said the Tribal subcommittee did not meet. He hoped to recruit a chair for this subcommittee so they can meet in the future.

Gov. Dorame said he would be interested to see the budget.

Ms. Van Buren said they must not let this subcommittee fall apart. Lot of pueblos want to get transit services. Not meeting is not good for us. Showing up is very important.

Gov. Dorame asked to submit his name as chair.

Mr. Mortillaro said the Tribal Subcommittee is very important to Staff and can give a heads up on things the District needs to know about. Ms. McGuire is the staff liaison.
N. Executive Report and Comments from the Executive Director

Mr. Mortillaro recalled that 3-4 months ago, the Board discussed the IRS and Social Security reimbursements and a challenge to get them responsive. Staff worked with Udall’s staff and they resolved those issues with almost full reimbursement. The interest made up with some of the shortfall. Now we will be able to allocate the final payment to those employees.

He announced that this is Mr. Kelly’s last board meeting. He will be working at least 3x per week as we find his replacement. We wish him the best and will miss all of his contributions as we have grown. There were many challenges but with his expertise and commitment those turned into successes.

Mr. Kelly said he really appreciated the relationships formed both in the City of Santa Fé and with the District and all the tribes. Over 5 years ago, Mr. Mortillaro presented his first policy as E.D. He was impressed with the direction Mr. Mortillaro was going to take. The Board picked the right person for the job. He appreciates all the staff. It is a good Staff and a great experience.

Mr. Kelly gave the Ridership and Performance Report starting on page 275. Overall, ridership is running flat for the last three months and a little bit over last year. Our District ridership is running well. Operating expenses, measured against Region Six and Rio Metro is right in the middle. Spare ratio is larger than the 20% required because of different sized vehicles. Mileage is good.

Page 282 presents the service and upkeep. The internal standard is 95 and we got 94.

There were no accidents in December and only one minor one in January. RTD drivers have done over 2 million miles without a major accident and he was really proud of that. Complaints and incidents have been minimal.

The Board had no questions.

MATTERS FROM THE BOARD

Commissioner Chávez noted that Mr. Bingham touched on the Santa Fee Mountain Route that it will be stopped for a few months.

Mr. Mortillaro agreed. They are working with Senator Udall on the permit issue and waiting for them to get back with us for additional direction. We had a stakeholders’ meeting a couple of weeks ago and had a US Forest person there. He was very understanding about the need to transport mountain bikes to the ski area but there is no resolution yet.

Councilor Sheehey said that at the Finance Committee meeting, the members have been volunteers as a contract committee for the next audit. We got several hundred pages of bids. The Committee will be meeting on Monday.

Ms. Van Buren announced a bad accident just happened on Highway 68 and it and Highway 74 are currently closed.

Councilman Rivera asked about the protocol for other sites for meeting.
Mr. Mortillaro said the Board approved up to four meetings for this year. The next meeting is at Tesuque Pueblo in April.

The next one away from Española is the September meeting at Santa Clara and then we will ask the Board whether to continue.

Ms. Valério asked how the new street affects staff.

Mr. Mortillaro said they line up at Auto zone and try to get into the que but it hasn’t impacted us too badly.

**ADJOURNMENT**

Commissioner Chávez moved to adjourn the meeting. Ms. Valério seconded the motion and it passed by unanimous voice vote.

The meeting was adjourned at 11:52 a.m.

Approved by:

Daniel R. Barrone, Chair

Attest:

Dennis Tim Salazar, Secretary

Submitted by:

Carl Boaz for Carl G. Boaz, Inc.
Agenda Report
NCRTD Board of Directors Meeting
Meeting Date: April 8, 2016
Agenda Item - C

Title: Election of Officers

Prepared By: Anthony J. Mortillaro, NCRTD Executive Director

Summary: Article X- Officers, in the adopted Board of Directors Bylaws provides for the election of Officers every other year at the April meeting of the Board. The last election of Officers occurred in April 2014. Officers serve a two (2) year term in the position. The Officer positions are as follows; Chair, Vice Chair and Secretary and Treasurer which over the years has been combined as Secretary/Treasurer. Further guidance on the responsibilities is listed in Article X.

The current officers and their terms are as follows:

Chair – Daniel Barrone, Town of Taos (April, 2014 – April, 2016)
Vice Chair – Miguel Chavez, Santa Fe County (April, 2014 – April, 2016)
Secretary/Treasurer – Dennis Tim Salazar, City of Espanola (April, 2014 – April, 2016)

Background: Following is Article X of the Amended and Restated Bylaws adopted on February 5, 2016.

ARTICLE X
OFFICERS

Section 10.01. Identification. The Board shall elect or appoint a Chair, a Vice Chair, a Secretary, and a Treasurer as Officers of the Board.

Section 10.02. Officers of the Board. Officers of the Board shall be Tribal Governors, Tribal Council members or elected officials.

Section 10.03. Election. The Board shall elect Officers every other year at the April meeting of the Board. The currently elected Board shall elect Officers by simple majority vote after canvassing each member as to their interest in service, time availability, and qualifications.

Section 10.04. Election of Chair and Vice Chair. The election of the Board Chair and Vice Chair may alternate between Tribal and non-Tribal members.
Section 10.05. **Term.** Each Officer shall serve a two (2) year term commencing upon election or appointment by the Board. Each Officer shall serve until the end of their term or until a successor is elected or appointed or the Officer is lawfully removed pursuant to State law or these Bylaws. Officers may serve unlimited terms.

Section 10.06. **Removal of Officers.** Any Officer of the Board may be removed at any time upon the affirmative vote of a two-thirds majority of both the total number of Directors and the voting units of all Members of the Board. Such action shall be initiated by a motion made at a regular meeting, but the vote shall not be called for until the next regular meeting or at a special meeting called for the purpose of considering such motion. The Secretary shall cause to be delivered or shall mail a copy of the resolution to the affected Director at least seven (7) days prior to the meeting at which the motion is to be voted upon. The vote shall be by secret ballot and the Chair shall appoint two Board members other than the officer being voted upon to count the votes and report on the results.

Section 10.07. **Vacancies.** If a vacancy exists in any office, the Chair shall appoint a Director to fill such vacancy until the next regular meeting of the Board, when an election will be held to fill the vacancy. The term of the Office of Officers filling vacancies shall be until the next regular election of officers.

Section 10.08. **Duties of the Officers.**
(a) Chair. The Chair shall:

(1) Have the power to call meetings of the Board and to preside over such meetings;
(2) Have the power to execute, deliver, acknowledge, file and record on behalf of the District such documents as may be required by the Act or other applicable law;
(3) Have the power to execute and deliver contracts, deeds and other instruments and agreements on behalf of the District as are necessary or appropriate in the ordinary course of its activities or as are duly authorized or approved by the Board;
(4) Have such additional authority, powers and duties as are appropriate and customary for the office of the Chair of the Board of Directors of entities such as the District, and as the Board may otherwise prescribe.
(5) The Chair is the first point of contact to the Executive Director on matters related to the District’s business, personnel matters or in the execution of his/her duties.
(6) The Chair will facilitate ongoing meetings with the Executive Director to ensure the Board is kept informed about important issues in a timely manner.
(7) The Chair is the direct supervisor of the Executive Director and is authorized to provide advice and counsel but not to direct or interfere with operational or personnel matters that are the sole purview of the Executive Director.
(8) The Executive Director will annually provide to the Chair any information requested or needed for a performance evaluation of the Executive Director. The Chair may seek input from members of the Board as the Chair deems appropriate which shall normally include consulting with all standing committee chairs. The Chair will also make a recommendation for an appropriate performance increase for the Executive Director if warranted on an annual basis.

(b) Vice Chair. The Vice Chair shall:

(1) Be the Officer next in seniority after the Chair and, upon the death, absence, or disability of the Chair, shall have the authority, powers and duties of the Chair until such time as the Board elects a new Chair
(2) Have such additional authority, powers and duties as are prescribed by the Board.

(c) The Secretary shall:
(1) If a Treasurer has not been elected or appointed, the Secretary shall also serve as Treasurer and may use the title of Treasurer in performing the functions of Treasurer.

(2) Have such other authority, powers and duties as are appropriate and customary for the office of Secretary of entities such as the District, and as the Board may otherwise prescribe.

(3) In the event of the absence, vacancy, disability, or death of the Chair and Vice-Chair; the Secretary shall serve as Chair until such time as the Board elects a new Chair or Vice-Chair.

(d) Treasurer. If a Treasurer has not been elected or appointed, the Secretary shall also serve as Treasurer and may use the title of Treasurer in performing the functions of Treasurer. The Treasurer shall, subject to rules and procedures established by the Board:

   (1) Cosign any financial document requiring the signature of multiple Officers of the NCRTD.
   (2) Have such additional authority, powers and duties as are appropriate and customary for the office of Treasurer of entities such as the District, and as the Board may otherwise prescribe.

**Recommended Action:** It is recommended that the Board elect officers.

**Options/Alternatives:** N/A

**Fiscal Impact:** None

**Attachments:** None
Title: NCRTD Board Attendance Report, April 2015 – March 2016

Prepared By: Anthony J. Mortillaro, Executive Director

Summary: In accordance with the Amended and Restated Bylaws adopted by the Board of Directors on February 5, 2016, the Board Attendance Report is required to be reported for the period of April 2015 – March 2016.

Background: Per Section 9.10 of the Bylaws, the Executive Director shall annually review each Director’s compliance with these Bylaws and each Director’s attendance and report the information to the Board at the regular meeting in April of each year.

Recommended Action: It is recommended that the Board review and accept the report.

Options/Alternatives: The Board may consider the following options/alternatives:

1. Take no action; or
2. Provide further direction.

Attachments:
Board Attendance Report, April 2015 – March 2016
## NCRTD Board Attendance Report
### April 2015 - March 2016

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Title: Memorandum of Understanding (MOU) Between Los Alamos County (LAC) and North Central Regional Transit District (NCRTD)

Prepared By: Anthony J. Mortillaro, Executive Director

Summary: The attached MOU is entered into on an annual basis to document the terms and conditions related to the contribution that LAC provides to the NCRTD. For Fiscal Year 2016 the amount of this contribution is $350,000.

Background: The “Progress through Partnering” program was commenced by Los Alamos County in the fall of 2005 and the LAC County Council had annually approved a program allocation of $1.5 million per year for five years for those regional activities identified in that program. In a collective effort, the then NCRTD staff assisted LAC in securing consensus among the various governing bodies in North Central New Mexico and the execution of Cooperative Agreements that provided in particular for the $1.1 million in annual funding for regional transit to the NCRTD. Although the five year agreement expired in 2012, LAC has continued to make voluntary contributions to the NCRTD, although at a lower amount than previously, due to economic conditions impacting the County.

This annual funding allocation from Los Alamos County to the NCRTD is essential in providing the funds for the federal matching contributions, operational costs and capital for regional transportation that the District provides. These funds are also utilized to provide for mid-day service to Los Alamos County. Without this funding assistance from Los Alamos County it would be very challenging for the District to have achieved the success it had in serving the transit needs for the residents of these communities and providing the critical interconnectivity for work, educational, medical, and social and quality of life needs for this diverse region.

With this contribution the NCRTD will have received $7,250,000 from Los Alamos County over the last seven years. Five hundred thousand dollars ($500,000) of the funds received from Los Alamos County were placed in a restricted revolving fund for operating and capital needs. This agreement removes the restriction on these funds.

Recommended Action: Authorize the Chairman to execute the MOA.
Options/Alternatives:

1. Take no action which will result in the loss of $350,000; or
2. Adopt the recommendation, (recommended); or
3. Not adopt the recommendations and provide further direction to staff.

Fiscal Impact: The Fiscal Year 2016 budget contemplated the receipt and expenditure of these revenue funds. Following are two charts; the first one represents the historical and projected funding relationship with Los Alamos County and the second chart reflects the importance of this annual contribution as source of revenue for the operating budget.
Attachments:
MOU
MEMORANDUM OF UNDERSTANDING
BETWEEN
LOS ALAMOS COUNTY AND
NORTH CENTRAL REGIONAL TRANSIT DISTRICT

This MEMORANDUM OF UNDERSTANDING (the “MOU”) is entered into by and between the Incorporated County of Los Alamos (“County”) and the North Central Regional Transit District (“NCRTD”).

WHEREAS, the NCRTD is a political subdivision of the State of New Mexico; and

WHEREAS, the County is a political subdivision of the State of New Mexico and a member of the NCRTD; and

WHEREAS, the NCRTD is authorized to finance, construct, operate, maintain, and promote an efficient, sustainable, and multi-modal transportation system subject to compliance with the Regional Transit District Act (“Act”); and

WHEREAS, the NCRTD current membership includes the County of Los Alamos, the County of Santa Fe, the County of Rio Arriba, the County of Taos, the City of Santa Fe, the City of Espanola, the Town of Edgewood, the Town of Taos, the Pueblo of San Ildefonso, Pueblo of Pojoaque, Pueblo of Santa Clara, Pueblo of Nambe, Pueblo of Tesuque, and Pueblo of Ohkay Owingeh (the “NCRTD members”); and

WHEREAS, under regional partnership Cooperative Agreements, the County agreed to fund certain expenses and projects of the NCRTD; and

WHEREAS, beginning in federal fiscal year 2006, the County entered into MOUs directly with the NCRTD and has to date provided $6,300,000 in funding, of which $5,800,000 was used for capital expenses, operational expenses, and to establish additional reserve funds, including matching federal dollars for NCRTD operations and transit projects and $500,000 was used to establish a permanent working capital fund for NCRTD; and

WHEREAS, the NCRTD desires additional funding for capital and operational expenses and to increase reserves, that the County is willing to provide under the County's regional partnership efforts; and
WHEREAS, the County wishes to continue partnering with the NCRTD under this MOU in order to promote an efficient, supportive, sustainable, and multi-modal transportation system, including services operated by the NCRTD staff and member entities; and

WHEREAS, the NCRTD Financial Policies Adopted and Amended by Board Resolution No. 2015-29 on October 9, 2015 has established a reserve policy reflecting the funding in part provided by the County in previous years in the amount of $500,000 and the NCRTD will seek to maintain at all times an amount equaling 25% of its operating revenue as a cash reserve which is inclusive of the New Mexico State Department of Finance and Administration requirement as such Board Policy maybe amended from time to time; and

WHEREAS, the County fiscal year 2016 (FY16) budget, beginning July 1, 2015 and ending June 30, 2016, provides the NCRTD with $350,000.

NOW, THEREFORE, for good and valuable consideration, including mutual covenants between the parties hereto the receipt of which is acknowledged, the parties do hereby agree as follows:

A. PURPOSE.

The purpose of this MOU is to provide $350,000.00 in FY16 to the NCRTD for member local government matches of federal grants, additional reserve funds, and such other purposes as the NCRTD deems appropriate.

B. SCOPE OF MOU.

1. County agrees to provide to the NCRTD $350,000.

2. The NCRTD agrees to utilize the funds provided under this MOU as matching funds for federal grants on behalf of NCRTD or its members and to maintain the NCRTD’s midday service routes to Los Alamos County.
3. The NCRTD agrees to work with the County to evaluate how the service routes to Los Alamos could be changed to be better integrated with connecting routes and other service needs and to make any adjustments that are mutually agreeable to the County and NCRTD and financially feasible for NCRTD, based upon NCRTD’s sole evaluation of financial feasibility.

4. The NCRTD agrees to work with the County to implement the FY16 Annual Service Plans submitted by the City of Santa Fe and Los Alamos County providing for specific regional routes funded by NCRTD Regional Transit Gross Receipts Tax (RTGRT) as adopted by Board Resolution No. 2015-21 on August 7, 2015.

5. Past contributions by County of $500,000 for reserves was previously restricted as to its use for a working capital fund and, by this MOU, the restriction is being lifted.

6. The NCRTD agrees to strictly account for all the funds received under this MOU and under any prior MOU and to provide the County with a detailed quarterly report within thirty (30) days after the close of the quarter, showing how the funds provided under this MOU were utilized. NCRTD also agrees to allow the audit of its books by the County or its independent auditor upon reasonable notice and during normal business hours to ensure such compliance.

C. COSTS.

All costs of the parties in implementing this MOU shall be borne by the respective parties.

D. TERM AND EFFECTIVE DATE.

This MOU shall be effective upon execution and shall expire on September 30, 2016.

E. TERMINATION.

This MOU may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Upon notice of termination any funds remaining unmatched by federal grants or unspent, shall be assessed for potential reallocation by the NCRTD.

F. LIABILITY.

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation of requirements applicable to the performance of this MOU. Each party shall be
liable for its own actions or inactions in accordance with state law and nothing herein shall be deemed a waiver, indemnity or to otherwise create or effect liabilities between the parties.

G. THIRD-PARTY BENEFICIARIES.

By entering into the MOU, the parties do not intend to create in the public, or any member thereof, a third party beneficiary or to authorize anyone not a party to the MOU to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this MOU. No person shall claim any right, title or interest under this MOU or seek to enforce this MOU as a third party beneficiary of this MOU.

H. NEW MEXICO TORT CLAIMS ACT.

By entering into this MOU, neither party shall be responsible for liability incurred as a result of the other party’s acts or omissions in connection with this MOU. Any liability incurred in connection with this MOU is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et seq., NMSA (1978). This paragraph is intended only to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties’ liabilities as governed by common law or the New Mexico Tort Claims Act. No provision in this MOU modifies an/or waives any provision of the New Mexico Tort Claims Act.

I. AMENDMENT.

This MOU shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

J. SEVERABILITY.

In the event that any of the items or provisions herein are found to be in conflict with any applicable statute or rule of law or are otherwise held to be invalid, then such provision shall be deemed inoperative to the extent of such conflict or invalidity, and the remainder of the provisions shall, to the extent possible, remain in full force and effect.

K. NOTICES.

Any notices required to be given pursuant to this MOU shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:
L. AUTHORIZATION.

The parties warrant that each signatory to this MOU has the appropriate authority and is authorized to execute this MOU on behalf of its respective party.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding on the dates set forth below.

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

SHARON STOVER
COUNTY CLERK

RICK REISS
COUNCIL CHAIR

Approved as to form:

REBECCA W. EHLER
COUNTY ATTORNEY

NORTH CENTRAL REGIONAL TRANSIT DISTRICT

By:
DANIEL BARRONE
NCRTD CHAIR

DATE
DATE
Title: Resolution No. 2015-14(R) Re-Adopting FY2016 Budget.

Prepared By: Troy Bingham, NCRTD Finance Director

Summary: At the June 2015 Board meeting the Board approved a resolution adopting the FY 2016 Budget. As part of the resolution Finance staff submitted financial documents to the Department of Finance and Administration Local Government Division (DFA-LGD) that summarized the final FY2016 budget. The summary document stated a beginning cash balance of $1,277,449, which was the ending cash balance of FY2014, not the ending cash balance of FY2015 of $1,155,279. This error was identified in January 2016 by DFA-LGD after District staff had submitted two quarterly reports using the correct cash balance for FY2016. District staff has worked with DFA-LGD staff to resolve the discrepancy since the Board approved the overall budget in June 2015, but DFA-LGD is insistent the Board be aware of the submission error and submit a resolution confirming the change.

Background: The FY2016 Budget remains the same as what was approved in June 2015 which is the following:

<table>
<thead>
<tr>
<th>Revenue Category</th>
<th>Preliminary FY16 Budget Request</th>
<th>Amended FY16 Budget Request</th>
<th>Final FY16 Budget Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>5311/Taos</td>
<td>$0</td>
<td>$353,935</td>
<td>$353,935</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>$207,344</td>
<td>$142,324</td>
<td>$349,668</td>
</tr>
<tr>
<td>Taos Contribution</td>
<td>$0</td>
<td>$173,972</td>
<td>$173,972</td>
</tr>
<tr>
<td>Cash Balance</td>
<td>$564,923</td>
<td>($48,314)</td>
<td>$516,609</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>$9,837,155</td>
<td>$0</td>
<td>$9,837,155</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$10,609,422</td>
<td>$621,917</td>
<td>$11,231,339</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenditure Category</th>
<th>Preliminary FY16 Budget Request</th>
<th>Amended FY16 Budget Request</th>
<th>Final FY16 Budget Request</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries</td>
<td>$2,336,947</td>
<td>$299,883</td>
<td>$2,636,830</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>$1,107,138</td>
<td>$138,057</td>
<td>$1,245,195</td>
</tr>
<tr>
<td>Operating Expenses</td>
<td>$5,927,499</td>
<td>$162,977</td>
<td>$6,090,476</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$1,237,838</td>
<td>$21,000</td>
<td>$1,258,838</td>
</tr>
<tr>
<td>Total Expenditures</td>
<td>$10,609,422</td>
<td>$621,917</td>
<td>$11,231,339</td>
</tr>
</tbody>
</table>
The only change in found in the attached NCRTD FY2016 Budget Request to LGD Resubmission Document summary page that states “Unaudited Beginning Cash Balance @ July 1” for the General Fund.

**Recommended Action:** It is recommended that the Board move to adopt Resolution No. 2015 – 14(R) readopting the Fiscal Year 2016 Final Budget Request.

**Options/Alternatives:** None. The Department of Finance and Administration is insistent that the Board be aware of the mistake in earlier submission, and approve the correction.

**Fiscal Impact:** N/A

**Attachments:**
Resolution 2015- 14(R)
NCRTD FY2016 Budget Request to LGD Resubmission
North Central Regional Transit District (NCRTD)

Resolution 2015- 14(R)

A RESOLUTION ADOPTING THE FISCAL YEAR 2016 FINAL BUDGET

WHEREAS, the proposed Fiscal Year 2016 Budget was submitted in accordance with the Board’s Financial Policies as adopted and amended on November 4, 2011, March 1, 2013 and November 8, 2013; and

WHEREAS, after a public hearing was held, said budget was developed on the basis of need and through cooperation with all user departments, appointed officials and other department supervisors; and

WHEREAS, the Board of Director’s Finance Sub Committee on April 24, 2015 conducted a detailed review of the budget and recommended that the Board consider the Budget as presented; and

WHEREAS, the NCRTD governing body in and for the NCRTD has conducted a public hearing on May 1, 2015 and reviewed and approved a preliminary Budget for Fiscal Year 2016.

NOW AND THEREFORE BE IT RESOLVED THAT the Board of Directors of the NCRTD, State of New Mexico, hereby adopts the final budget for Fiscal Year 2016 hereinafter described and respectfully requests approval from the State of New Mexico’s Local Government Division of the Department of Finance and Administration: and

THEREFORE BE IT FURTHER RESOLVED THAT the Board of Directors of the NCRTD, State of New Mexico, hereby amend the beginning cash balance submitted in July 2015 to the State of New Mexico’s Local Government Division of the Department of Finance and Administration to reflect the correct ending FY2015 cash balance presented in the audited Comprehensive Annual Financial Report of $1,155,279.

PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 8TH, DAY OF APRIL, 2016.

__________________________________________
Daniel Barrone, Chairman

Approved as to form:

__________________________________________
Peter Dwyer, Counsel
<table>
<thead>
<tr>
<th>FUND TITLE</th>
<th>FUND NUMBER</th>
<th>UNAUDITED BEGINNING CASH BALANCE @ JULY 1 ( OR JAN. 1 )</th>
<th>INVESTMENTS</th>
<th>BUDGETED REVENUES</th>
<th>BUDGETED TRANSFERS</th>
<th>BUDGETED EXPENDITURES</th>
<th>ESTIMATED ENDING CASH BALANCE</th>
<th>(OPTIONAL) LOCAL RESERVE ( key value below )</th>
<th>ADJUSTED ENDING CASH BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL FUND - Operating (GF)</td>
<td>101</td>
<td>$1,155,279</td>
<td>$5,979,131</td>
<td>$11,231,339</td>
<td>$11,231,339</td>
<td></td>
<td>$7,134,410</td>
<td>-</td>
<td>$7,134,410</td>
</tr>
<tr>
<td>INTERGOVERNMENTAL GRANTS</td>
<td>218</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>OTHER</td>
<td>299</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>DEBT SERVICE</td>
<td>400</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>$1,155,279</strong></td>
<td><strong>$5,979,131</strong></td>
<td><strong>$11,231,339</strong></td>
<td><strong>$11,231,339</strong></td>
<td><strong>$11,231,339</strong></td>
<td><strong>$7,134,410</strong></td>
<td><strong>$7,134,410</strong></td>
<td><strong>$7,134,410</strong></td>
<td><strong>$7,134,410</strong></td>
</tr>
</tbody>
</table>

Check if this form is a re-submission: X  Re-submission No:  Resubmission Date: 4/8/2016

*USER COMMENTS: (Please describe what any reserve requirements are used for),
Cash balance of $516,609 will be utilized to cover service enhancements, capital improvements and fleet match requirements.
Title: Discussion and Approval of Award of Contract – Financial Audit Services

Prepared By: Troy Bingham, Finance Director

Summary: North Central Regional Transit District is required to perform a financial audit at the end of each fiscal year. This audit is to be performed in accordance with Generally Accepted Auditing Standards (GAAS), the standards set forth for financial audits in the U.S. General Accounting Office’s (GAO) Government Auditing Standards, the provisions of the Federal Single Audit Act, Amendments of 1996, GASB 34/35, and Applicable Federal OMB Circulars. The audit must comply with the New Mexico State Auditor’s Rule 2 NMAC 2.2, Regulations Governing the Audits of Agencies of the State of New Mexico and the terms and conditions of the State Auditor’s contractual agreement.

The District’s financial statements consist of all funds over which it has authority. The District manages one enterprise major fund with multiple revenue sources. One of the District’s major financial roles is to manage federal pass-through grants, according to statutory and regulatory criteria. This “flow-through” money constitutes a significant portion of the resources reported and is greater than $500,000 annually, so the District is required to have their auditor perform a single audit of all federal funds in compliance with federal circulars, along with their audited financial statements.

Background: The District started in January 2016 by issuing a Request for Proposal for financial audit services, including pre-proposal hearings for firms to learn more about the District before submitting their responses. The responses were due February 12, 2016 and the District received 5 responses from all State Auditor approved firms including our incumbent firm of 8 years, Hinkle + Landers. Deliberation on these proposals occurred February 26, 2016 by 2 elected officials and 2 appointed members of our Finance Subcommittee who were designated to be on our RFP Evaluation Committee. Oral presentations were performed by 4 firms for the RFP Evaluation Committee, whom judicially chose to reengage our current auditor for 3 more years due to their understanding of transit and overall ability to show value to the District’s audit process.
The Office of the State Auditor (OSA) has recently rescinded the State Audit Rule that allowed audit contracts under $60,000 to be with the same firm for 12 years before rotating, but has offered the NCRTD one additional year due to the fact we started our reselection process prior to the change.

The OSA would also like the Board to know that picking the 2\textsuperscript{nd} place firm could also be recommended, so that the Board does not have to go through the Request for Proposal (RFP) process in FY2017.

**Recommended Action:** Authorize the Executive Director to execute a one year only contract approved by the Office of the State Auditor with Hinkle + Landers for FY2016 Audit for $23,581.

Please note, any action taken by the NCRTD Board regarding the Award of Financial Audit Services is contingent upon the Office of the State Auditor approval.

**Options/Alternatives:**
1. Take no action; or
2. Adopt the recommendations, (recommended); or
3. Not adopt the recommendations and provide further direction to Staff.

**Fiscal Impact:**
To not approve the Evaluation Committee’s recommendation of Contractor for the Financial Audit Services, could jeopardize the completion of the FY2016 Audit. Funding for the audit will be approved during the FY2017 budget process and in subsequent budgets.

**Attachments:**
- Request for Proposal (RFP)
- Submitted Proposal from Hinkle + Landers for Financial Audit Services
- Oral Presentation Slides from Hinkle + Landers
- Cost Proposal from Hinkle + Landers
- State Auditor Contract- RFP#2016-002 Financial Audit Services
- Offeror Listing for RFP#2016-002 Financial Audit Services
- Letter from the Office of the State Auditor
NORTH CENTRAL REGIONAL TRANSIT DISTRICT

REQUEST FOR PROPOSALS (RFP)

Financial Audit Services

RFP#2016-002

January 11, 2016

Due back February 12, 2016 at 3:00pm
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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of annual financial and compliance audit services for fiscal years ending 2016, 2017, and 2018 for North Central Regional Transit District (NCRTD or “the District”).

B. BACKGROUND INFORMATION

This audit is to be performed in accordance with Generally Accepted Auditing Standards (GAAS), the standards set forth for financial audits in the U.S. General Accounting Office’s (GAO) Government Auditing Standards, the provisions of the Federal Single Audit Act, Amendments of 1996, GASB 34/35, and Applicable Federal OMB Circulars. Audits must comply with the New Mexico State Auditor’s Rule 2 NMAC 2.2, Regulations Governing the Audits of Agencies of the State of New Mexico and the terms and conditions of the State Auditor’s contractual agreement (attached as Appendix B). The agency financial statements consist of all funds over which the NCRTD has authority. The District manages one enterprise major fund with multiple revenue sources. One of the District’s major financial roles is to manage federal pass-through grants, according to statutory and regulatory criteria. This “flow-through” money constitutes a significant portion of the resources reported. Interested Offerors who wish to review prior year’s audit reports and management letters should refer to the NM Office of the State Auditor “Audit Search” www.saonm.org/audit_reports.

PLEASE NOTE: The District wishes to have audit work commence immediately after the contract is signed. It is the District’s intent to make a selection shortly after the opening of bids (see RFP Timeline, Section II) and submit its selection to the New Mexico State Auditor for approval immediately after selection. It is therefore anticipated that audit work may commence on or about October 3, 2015, at which point the District fully intends to have representative populations available for tests of control with respect to disbursements, payroll and receipts. The District also intends to have the Schedule of Expenditures of Federal Awards prepared during that same time period. Fully adjusted trial balances and other reports will be available within 75 days after the year-end.

C. SCOPE OF PROCUREMENT

The District desires the auditor to perform the Scope of Work specified in the standard “State of New Mexico Audit Contract,” a copy of which appears as Appendix B to this request for proposals. Please see Section I.B. for an overview of the scope of the District’s accounting structure and funding. The District will prepare the fully adjusted working trial balances, but desires the audit firm selected to prepare the financial statements, notes, single audit section and all supporting details. After the statements and notes have been substantially finalized, the District will prepare the Management Discussion and Analysis for submittal to the Office of the State Auditor by the December 1st deadline. The District has taken on the additional task of preparing a
Comprehensive Annual Financial Report (CAFR), so the Letter of Transmittal, Statistical Tables, and Final Presentation will be updated by the District. The selected audit firm shall be required to comply with all Government Finance Officer Association recommendation for all future District CAFR presentations.

D. PURCHASING AGENT

1. The District has assigned a Purchasing Agent who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

   Name:      Troy Bingham, Finance Director
   Address:   1327 N. Riverside Drive
              Española, NM 87532
   Telephone: (505)629-4701
   Fax:       (505)747-6647
   Email:     troyb@ncrtd.org

2. All deliveries of responses via express carrier must be addressed as follows:

   Name:  Purchasing Agent
   Reference RFP Name:  Audit Services RFP#2016-002
   Address:  1327 N. Riverside Drive
              Española, NM 87532

3. Any inquiries or requests regarding this procurement should be submitted, in writing, to the Purchasing Agent. Offerors may contact ONLY the Purchasing Agent regarding this procurement. Other Evaluation Committee members do not have the authority to respond on behalf of the District. Protests of the solicitation or award must be delivered by mail to the Purchasing Agent. Emailed protests will not be considered as properly submitted.

E. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

“Authorized Purchaser” means an individual authorized by a Participating Entity to place orders against this contract.

“Award” means the final execution of the contract document.

“Business Hours” means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Close of Business” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
“Confidential” means confidential financial information concerning offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

“Contract” means any agreement for the procurement of items of tangible personal property, services or construction.

“Contractor” means any business having a contract with a state agency or local public body.

“Determination” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable” the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.

“Electronic Version/Copy” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (cd) or USB flash drive. The electronic version/copy can NOT be emailed.

“Evaluation Committee” means a body appointed to perform the evaluation of Offerors’ proposals.

“Evaluation Committee Report” means a report prepared by the Purchasing Agent and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

“Finalist” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

“IT” means Information Technology.

“Mandatory” – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

“Minor Technical Irregularities” means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.
“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“OSA” the Office of the State Auditor

“Price Agreement” means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

“Purchasing Agent” means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

“Project” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

“Redacted” means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.

“Request for Proposals (RFP)” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsible Offeror” means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.

“Responsive Offer" or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

“Sealed” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The District reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Purchasing Agent. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Purchasing Agent in such cases.

“Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
“State (the State)” means the State of New Mexico.

“Statement of Concurrence” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal. (E.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

“Unredacted” means a version/copy of the proposal containing all complete information including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

“Written” means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.
II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description and conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Purchasing Agent will make every effort to adhere to the following schedule:

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsible Party</th>
<th>Due Dates Sample Time Frames</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Issue RFP</td>
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B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II. A., above.

1. Issuance of RFP

This RFP is being issued on behalf of NCRTD on January 11, 2016.

2. Pre-Proposal Conference

A non-mandatory pre-proposal conference will be held on January 21, 2016 at 9:00am Mountain Standard Time/Daylight Time at 1327 N. Riverside Drive, Española, NM 87532. Potential Offeror(s) are encouraged to submit written questions in advance of the conference to the Purchasing Agent (see Section I, Paragraph D). The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be
submitted at the conference. All written questions will be addressed in writing on the date listed in the Sequence of Events. Attendance at the pre-proposal conference is but not a prerequisite for submission of a proposal.

3. **Deadline to Submit Written Questions**

Potential Offerors may submit written questions to the Purchasing Agent as to the intent or clarity of this RFP until close of business the day indicated in the sequence of events. All written questions must be addressed to the Purchasing Agent as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

4. **Response to Written Questions**

Written responses to written questions (if deemed necessary by the Purchasing Agent) will be posted on the District’s website located at [www.ncrtd.org/requests.aspx](http://www.ncrtd.org/requests.aspx).

5. **Submission of Proposal**

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PURCHASING AGENT OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON FEBRUARY 12, 2016. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Purchasing Agent at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the Audit Services RFP#2016-002. Proposals submitted by facsimile, or other electronic means, will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required signature on the contracts resulting from the procurement has been obtained.

6. **Proposal Evaluation**

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, the Purchasing Agent may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.
7. **Selection of Finalists**

The Evaluation Committee will select and the Purchasing Agent will notify the finalist Offerors as per schedule Section II. A., Sequence of Events or as soon as possible. A schedule for the oral presentation and demonstration will be determined at this time.

8. **Best and Final Offers**

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by as per schedule Section II. A., Sequence of Events or as soon as possible. Best and final offers may also be clarified and amended at finalist Offeror’s oral presentation and demonstration.

9. **Oral Presentations**

Finalist Offerors may be required to conduct an oral presentation at a location to be determined as per schedule Section II. A., Sequence of Events or as soon as possible. Whether or not oral presentations will be held is at the discretion of the Evaluation Committee.

10. **Finalize Contractual Agreements**

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the Purchasing Agent. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the District reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

11. **Contract Awards**

After review of the Evaluation Committee Report and the signed contractual agreement, the Purchasing Agent will award as per the schedule in Section II. A., Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Purchasing Agent.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to NCRTD, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points.

12. **Protest Deadline**

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. ONLY protests delivered directly to the Purchasing Agent in writing and in a timely fashion will be considered to have been
submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time on the April 25, 2016. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to Purchasing Agent. Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with a state agency which may derive from this RFP. The District will enter into a contractual agreement with a vendor will make payments to only the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The District personnel will not merge, collate, or assemble proposal materials.
6. Offeror’s Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Purchasing Agent and signed by the Offeror’s duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

A. Proposals will be kept confidential until negotiations and the award are completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Purchasing Agent will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

B. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.

C. Confidential data is restricted to:
   1. confidential financial information concerning the Offeror’s organization;
   2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
   3. PLEASE NOTE: The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Purchasing Agent shall examine the Offeror’s request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This RFP in no manner obligates NCRTD to the use of any Offeror’s services until a valid written contract is awarded and approved by appropriate authorities.
10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the agency determines such action to be in the best interest of NCRTD.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effected by sending written notice to the contractor. The District’s decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

The District requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror’s concerns must be promptly submitted in writing to the attention of the Purchasing Agent.

13. Governing Law

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied, in writing, by the District through the Purchasing Agent or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The contract between the District and a contractor will follow the format specified by the District and contain the terms and conditions set forth in the Sample Contract Appendix C. However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror’s proposal will be incorporated into and become part of any resultant contract.

The District discourages exceptions from the contract terms and conditions as set forth in the RFP Sample Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the District (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.
Should an Offeror object to any of the terms and conditions as set forth in the RFP Sample Contract (APPENDIX B) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose specific alternative language. The District may or may not accept the alternative language. General references to the Offeror’s terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the District and will result in disqualification of the Offeror’s proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an explicit agreement by the Offeror that the contractual terms and conditions contained herein are accepted by the Offeror.

16. Offeror’s Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the District. Please see Section II.C.15 for requirements.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between the District and the Offeror selected and shall not be deemed an opportunity to amend the Offeror’s proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a responsive offer as defined in District Procurement Rules and Regulations.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.
20. Change in Contractor Representatives

The District reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of the District, adequately meeting the needs of the District.

21. Notice of Penalties

The Procurement Code, NMSA 1978, § 13-1-28 through 13-1-199, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

22. Agency Rights

The District in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror’s proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror’s proposal or removal from the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of NCRTD.

25. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the Agency.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring District's written permission.

26. Electronic mail address required
A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.4, Response to Written Questions).

27. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror’s possession and the version maintained by the District’s website, the Offeror acknowledges that the version maintained by the District’s website shall govern.

28. New Mexico Employees Health Coverage

A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the District exceed $250,000 dollars.

B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the District.

C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information http://www.insurenewmexico.state.nm.us/.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales from District of $250,000.

29. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX B, as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor or other identified official. Failure to complete and return the signed unaltered form will result in disqualification.
30. Letter of Transmittal

Offeror’s proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX E which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
   a. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
   b. Explicitly indicate acceptance of Section V of this RFP; and
   c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in #2 above.

31. Disclosure Regarding Responsibility

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company:

1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;

2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
   a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
   b. violation of Federal or state antitrust statutes related to the submission of offers; or
   c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;

4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
   a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
   b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
   c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor’s disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor’s responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the Procurement
Manager or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the Purchasing Agent may terminate the involved contract for cause. Still further the Purchasing Agent may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the Purchasing Agent.
III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

1. Hard Copy Responses

Offeror’s proposal must be clearly labeled and numbered and indexed as outlined in Section III.C. Proposal Format. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

1. **Technical Proposals** – One (1) ORIGINAL, five (5) HARD COPIES of the proposal containing ONLY the Technical Proposal; ORIGINAL and COPY shall be in separate labeled binders.

   - Proposals containing confidential information *must* be submitted as two separate binders:
     - **Unredacted** version for evaluation purposes
     - **Redacted** version (information blacked out and not omitted or removed) for the public file

2. **Cost Proposals** – One (1) ORIGINAL, one (1) HARD COPY of the proposal containing ONLY the Cost Proposal; ORIGINAL and COPY of Cost Proposal shall be in separate labeled binders from the Technical Proposals.

3. The original and hard copy information *must* be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Proposal Content and Organization**, may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT
All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

Organization of folders/envelopes for hard copy proposals:

1. **Proposal Content and Organization**

   **Technical Proposal** (Binder 1):
   A. Signed Letter of Transmittal
   B. Table of Contents
   C. Proposal Summary (Optional)
   D. Response to Contract Terms and Conditions
   E. Offeror’s Additional Terms and Conditions
   F. Response to Specifications (except cost information which shall be included in Cost Proposal/Binder 2 only)
      1. Organizational Experience
      2. Organizational References
      3. Financial Stability - Financial information considered confidential should be placed in the Confidential Information binder.
      4. Signed Campaign Contribution Form
   G. Other Supporting Material (If applicable)

   **Cost Proposal** (Binder 2):
   1. Completed Cost Response Form

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur only in Binder #2 on the cost response form.

The proposal summary may be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror’s proposal.
IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

A. DETAILED SCOPE OF WORK

The District will prepare the fully adjusted working trial balances and Schedule of Federal Awards (SEFA) 75 days after the fiscal year end.

The audit firm selected will prepare the financial statements, notes, single audit section and all supporting details by the 10th working day of November of every fiscal year end. The auditor will present the findings and management report to the Finance Committee of the District that meets typically the 3rd Friday in November.

After the 10th working day in November, the District will prepare the Management Discussion and Analysis based on the financials for inclusion in the submittal to the Office of the State Auditor by the December 1st deadline.

During the month of December, the District will prepare and submit the Comprehensive Annual Financial Report (CAFR), including the Letter of Transmittal, Statistical Tables, and possibly redo the final presentation of the financials to conform to the CAFR requirements.

The selected audit firm shall be required to comply with all Government Finance Officer Association recommendation for all future District CAFR presentations and present the finalized CAFR at the January/February full Board meeting after the OSA has released the document to the public.

B. TECHNICAL SPECIFICATIONS

1. Organizational Experience

Offerors must:

a) provide a description of relevant corporate experience with state government and private sector. The experience of all proposed subcontractors must be described. The narrative must thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of financial audit and compliance services. All financial audit and compliance services provided to private sector will also be considered;

b) indicate how many public and private sector audits have been performed in the last two years and what percentage of business revenue is derived from public and private audit engagements;
c) describe at least two project successes and failures of financial audit and compliance services engagements. Include how each experience improved the Offeror’s services.

2. Organizational References

Offerors should provide a minimum of three (3) references from similar projects performed for private, state or large local government clients within the last three years. Offerors are required to submit APPENDIX E, Organization Reference Questionnaire, to the business references they list. The business references must submit the Reference Form directly to the designee described in Sec I Paragraph D. It is the Offeror’s responsibility to ensure the completed forms are received on or before February 12, 2016 for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the vendor’s score in the evaluation process. The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Purchasing Agent and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Purchasing Agent and all members of the Evaluation Committee receive the same information. Additionally, the District reserves the right to consider any and all information available to it (outside of the Business Reference information required herein), in its evaluation of Offeror responsibility per Section II, Paragraph C.18.

Offerors shall submit the following Business Reference information as part of Offer:

   a) Client name;
   b) Project description;
   c) Project dates (starting and ending);
   d) Technical environment (i.e., auditee type and size);
   e) Staff assigned to reference engagement that will be designated for work per this RFP; and
   f) Client project manager name, telephone number, fax number and e-mail address.

3. Oral Presentation

If selected as a finalist, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the District. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.
C. BUSINESS SPECIFICATIONS

1. Financial Stability

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

2. Letter of Transmittal Form

The Offeror’s proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D. The form must be completed and must be signed by the person authorized to obligate the company.

3. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror’s proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX A)

4. Cost

Offerors must complete the Cost Response Form in APPENDIX C.

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<td>$0.00</td>
<td></td>
</tr>
<tr>
<td>Gross Receipts Tax</td>
<td>0</td>
<td>$0.00</td>
<td>0</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>0</td>
<td>$0.00</td>
<td>0</td>
</tr>
</tbody>
</table>

All charges listed on APPENDIX C must be justified and evidence of need documented in the proposal.
V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

<table>
<thead>
<tr>
<th>Factors – correspond to section IV.B and IV.C</th>
<th>Points Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Technical Specifications</td>
<td></td>
</tr>
<tr>
<td>B. 1. Organizational Experience</td>
<td>65%</td>
</tr>
<tr>
<td>B. 2. Organizational References</td>
<td>25%</td>
</tr>
<tr>
<td>C. Business Specifications</td>
<td></td>
</tr>
<tr>
<td>C.1. Financial Stability</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td>C.2. Letter Of Transmittal</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td>C.3. Signed Campaign Contribution Disclosure Form</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td>C.4. Cost</td>
<td>10%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

1. B.1 Organizational Experience (See Table 1)
   Points will be awarded based on the thoroughness and clarity of the response of the engagements cited and the perceived validity of the response.

2. B.2 Organizational References (See Table 1)
   Points will be awarded based upon an evaluation of the responses to a series of questions as per Appendix D. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will be awarded zero (0) points.

3. C.1 Financial Stability (See Table 1)
   Pass/Fail only. No points assigned.

4. C.2 Letter of Transmittal (See Table 1)
   Pass/Fail only. No points assigned.

5. C.3 Campaign Contribution Disclosure Form (See Table 1)
   Pass/Fail only. No points assigned.
6. **C.5 Cost (See Table 1)**

The evaluation of each Offeror’s cost proposal will be conducted using the following formula:

\[
\frac{\text{Lowest Responsive Offer Bid}}{\text{This Offeror's Bid}} \times \text{Available Award Points}
\]

**C. EVALUATION PROCESS**

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

2. The Purchasing Agent may contact the Offeror for clarification of the response as specified in Section II. B.6.

3. The Evaluation Committee may use other sources of to perform the evaluation as specified in Section II. C.18.

4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the District taking into consideration the evaluation factors in Section IV will be recommended for award (as specified in Section II. B.10). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.
APPENDIX A

CAMPAIGN CONTRIBUTION DISCLOSURE FORM
Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars ($250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official’s employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

This form must be filed by any prospective contractor whether or not they, their family member, or their representative has made any contributions subject to disclosure.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.
“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: __________________________________________

Relation to Prospective Contractor: __________________________________________

Name of Applicable Public Official: _________________________________________

Date Contribution(s) Made: __________________________________________

Amount(s) of Contribution(s)  __________________________________________

Nature of Contribution(s)  __________________________________________

Purpose of Contribution(s)  __________________________________________

(Attach extra pages if necessary)

________________________________________________________________________

Signature                  Date

________________________________________________________________________
Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS ($250) WERE MADE to an applicable public official by me, a family member or representative.

__________________________________  _______________________
Signature       Date

__________________________________
Title (Position)
APPENDIX B

Independent Public Auditor Recommendation Form for Audits
## APPENDIX C

### COST RESPONSE FORM

**VI. Fee and Hour Breakdown**

<table>
<thead>
<tr>
<th>Category</th>
<th>The first year of our 3-year procurement was FY 20___ (or use just these columns for one-year procurement)</th>
<th>The second year of our 3-year procurement was FY 20___</th>
<th>The third year of our 3-year procurement was FY 20___</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Year 1 Hours</td>
<td>Year 1 Cost</td>
<td>Year 2 Hours</td>
</tr>
<tr>
<td>Financial Statement Audit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial Statement Preparation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Single Audit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other allowed non-audit services</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Component Units</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td></td>
<td>$ 0.00</td>
<td></td>
</tr>
<tr>
<td>Gross Receipts Tax</td>
<td></td>
<td></td>
<td>$ 0.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>0</td>
<td>$ 0.00</td>
<td>0</td>
</tr>
</tbody>
</table>
APPENDIX D

LETTER OF TRANSMITTAL FORM
**APPENDIX D**

*Letter of Transmittal Form*

RFP#: ______________________________
Offeror Name: _____________________   FED ID# _______________________________

Items #1 to #7 EACH MUST BE COMPLETED IN FULL. Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. **Identity (Name) and Mailing Address** of the submitting organization:

   ____________________________________________________________
   ____________________________________________________________
   ____________________________________________________________

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:
   Name _______________________________________________________
   Title _______________________________________________________
   E-Mail Address ______________________________________________
   Telephone Number ___________________________________________

3. For the person authorized by the organization to negotiate on behalf of this Offer:
   Name _______________________________________________________
   Title _______________________________________________________
   E-Mail Address ______________________________________________
   Telephone Number ___________________________________________

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:
   Name _______________________________________________________
   Title _______________________________________________________
   E-Mail Address ______________________________________________
   Telephone Number ___________________________________________

5. **Use of Sub-Contractors** (Select one)
   ____ No sub-contractors will be used in the performance of any resultant contract OR
   ____ The following sub-contractors will be used in the performance of any resultant contract:

   (Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.

   (Attach extra sheets, as needed)

7. ___ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II. C.1.
   ___ I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.
   ___ I acknowledge receipt of any and all amendments to this RFP.

   ___________________________________________________________, 2016

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)
APPENDIX E

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

NCRTD, as a part of the RFP process, requires Offerors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document Offeror’s experience relevant to the scope of work in an effort to establish Offeror’s responsibility.

Offeror is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to:

North Central Regional Transit District
C/o Purchasing Agent
1327 N. Riverside Drive
Española, NM 87532

by February 12, 2016 for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. Business references provided may be contacted for validation of content provided therein.
This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to North Central Regional Transit District, c/o Purchasing Agent via facsimile or e-mail at:

Name: Troy Bingham, Purchasing Agent  
Address: 1327 N. Riverside Drive  
Española, NM 87532  
Telephone: (505)629-4701  
Fax: (505)747-6647  
Email: troyb@ncrtd.org

no later than February 12, 2016 at 3:00pm, and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the Purchasing Agent listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

<table>
<thead>
<tr>
<th>Company providing reference:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact name and title/position</td>
<td></td>
</tr>
<tr>
<td>Contact telephone number</td>
<td></td>
</tr>
<tr>
<td>Contact e-mail address</td>
<td></td>
</tr>
<tr>
<td>Project description;</td>
<td></td>
</tr>
<tr>
<td>Project dates (starting and ending);</td>
<td></td>
</tr>
<tr>
<td>Technical environment for the project your providing a reference (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);</td>
<td></td>
</tr>
</tbody>
</table>
QUESTIONS:

1. In what capacity have you worked with this vendor in the past?
   COMMENTS:

2. How would you rate this firm's knowledge and expertise?
   (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
   COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?
   (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
   COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?
   (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
   COMMENTS:

5. How would you rate the dynamics/interaction between the vendor and your staff?
   (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)
   COMMENTS:
6. Who were the vendor’s principal representatives involved in your project and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: ____________________________ Rating: 
Name: ____________________________ Rating: 
Name: ____________________________ Rating: 
Name: ____________________________ Rating: 

COMMENTS:

7. How satisfied are you with the products developed by the vendor?
   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

8. With which aspect(s) of this vendor’s services are you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor’s services are you least satisfied?

COMMENTS:
10. Would you recommend this vendor's services to your organization again?
COMMENTS:
NORTH CENTRAL REGIONAL TRANSIT DISTRICT
TECHNICAL PROPOSAL FOR AUDIT SERVICES
For The Years Ended June 30, 2016, 2017, and 2018
APPENDIX D
Letter of Transmittal Form

RFP#: 2016-002
Offeror Name: Hinkle + Landers, PC  FED ID#  85-0232815
Items #1 to #7 EACH MUST BE COMPLETED IN FULL. Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. **Identity (Name) and Mailing Address** of the submitting organization:
   Hinkle + Landers, PC
   2500 9th St. NW
   Albuquerque, NM 87102

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:
   Name  Farley Vener, CPA, CFE, CGMA
   Title  President and Managing Shareholder
   E-Mail Address  FVener@HL-CPAS.com
   Telephone Number  (Office) 505-883-8788  (Cell) 505-385-4899

3. For the person authorized by the organization to negotiate on behalf of this Offer:
   Name  Farley Vener, CPA, CFE, CGMA
   Title  President and Managing Shareholder
   E-Mail Address  FVener@HL-CPAS.com
   Telephone Number  (Office) 505-883-8788  (Cell) 505-385-4899

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:
   Name  Farley Vener, CPA, CFE, CGMA
   Title  President and Managing Shareholder
   E-Mail Address  FVener@HL-CPAS.com
   Telephone Number  (Office) 505-883-8788  (Cell) 505-385-4899

5. **Use of Sub-Contractors (Select one)**
   X  No sub-contractors will be used in the performance of any resultant contract OR
   ____ The following sub-contractors will be used in the performance of any resultant contract:

   (Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.
   None

   (Attach extra sheets, as needed)

7. X  On behalf of the submitting organization named in item #1, above, I accept the Conditions
   Governing the Procurement as required in Section II. C.1.
   X  I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained
   in Section V of this RFP.
   X  I acknowledge receipt of any and all amendments to this RFP.

   [Signature]
   [Date] 2/12, 2016

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
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<td>i</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>i</td>
</tr>
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<td>PROPOSAL SUMMARY</td>
<td>1</td>
</tr>
<tr>
<td>RESPONSE TO CONTRACT TERMS AND CONDITIONS</td>
<td>2</td>
</tr>
<tr>
<td>HINKLE + LANDERS' ADDITIONAL TERMS AND CONDITIONS</td>
<td>2</td>
</tr>
<tr>
<td>RESPONSE SPECIFICATIONS</td>
<td></td>
</tr>
<tr>
<td>1. Organizational Experience</td>
<td>3-11</td>
</tr>
<tr>
<td>2. Organizational References</td>
<td>11-14</td>
</tr>
<tr>
<td>3. Financial Stability</td>
<td>14-15</td>
</tr>
<tr>
<td>4. Campaign Contribution Form</td>
<td></td>
</tr>
<tr>
<td>APPENDIX:</td>
<td></td>
</tr>
<tr>
<td>Firm Profile &amp; NM Residence Certificate</td>
<td></td>
</tr>
<tr>
<td>Peer Review</td>
<td></td>
</tr>
<tr>
<td>Team Resumes</td>
<td></td>
</tr>
<tr>
<td>Continuing Professional Education</td>
<td></td>
</tr>
</tbody>
</table>
RESPONSE TO CONTRACT TERMS AND CONDITIONS

Hinkle + Landers, PC agrees to format, terms and conditions laid out in the sample contract in Appendix C of the Request for Proposals.

HINKLE + LANDERS' ADDITIONAL TERMS AND CONDITIONS

Hinkle + Landers, PC has no additional terms and conditions.

RESPONSE TO SPECIFICATIONS

1. Organizational Experience

We offer the North Central Regional Transit District a team of professionals with more than 75 years of combined experience in public accounting to serve as your independent auditors. Hinkle + Landers, PC has been a stable, governmental expert, local provider to NM governments for over 43 years. We have served over 200 governments, of all sizes and complexity. Many of these local governments require audits which must comply with Government Auditing Standards (Yellow Book) and OMB A-133 Single Audits.

We are also highly experienced in assisting clients with guidance and implementation for GASB reporting standards. Not only do we serve clients well, we serve the profession, leading at the local, state, and federal levels in organizations such as the AICPA, AGA, and NM State Board of Accountancy.

Specifically, we have audited the North Central Regional Transit District for the past 8 years. Over the years, we have worked with management to cooperatively improve internal controls and implement best practices. Your proposed engagement partner has served the NCRTD for all 8 years.
NORTH CENTRAL REGIONAL TRANSIT DISTRICT
AUDIT SERVICES TECHNICAL PROPOSAL
For The Years Ended June 30, 2016, 2017 and 2018

Proposed Staff, (Cont.)

- Your proposed Engagement Partner, Farley Vener, CPA, CFE, CGMA brings to you over 20 years of specialization in State Agencies, Counties, and Special Districts, creating effective project management tools, utilizing a high level of communication, and working with Agencies’ teams in a friendly, cooperative manner. Farley recently taught internal controls to other CPA’s and industry personnel at the AGA Albuquerque and New Mexico Chapters’ Professional Development Training in April 2015. Through Farley’s philosophy of continuous improvement, encouragement and guidance year-round, he will work to address any new accounting standards that will affect the NCRTD in the coming fiscal years.

- Your proposed Senior Audit Manager, Maclen Enriquez, CPA, is a native of New Mexico and grew up in Ruidoso. He brings to you over 6 years of experience in public and governmental accounting. Notably, Maclen has been lead audit manager on the City of Clovis’ audit the past 3 years and has worked with numerous government and non-profit agencies.

- Your proposed Audit Manager, Katelyn Constantin, has been working with Hinkle + Landers, PC for almost 5 years and has worked with the North Central Regional Transit District every year. Katelyn has been lead audit manager on Doña Ana County for the past 3 years, along with many other government agencies and non-profits.

- Your proposed Audit Staff, Sara Heppler, CPA, has been working with Hinkle + Landers, PC for almost 2 years. She received her CPA in April 2015, and has assisted with many governmental and non-profit audits.
Proposed Staff, (Cont.)

Maclen Enriquez, CPA

Maclen Enriquez, Senior Audit Manager, joined the firm in June of 2009. He graduated Magna Cum Laude in May of 2009 from the Anderson School of Management at the University of New Mexico, where he earned his Bachelor degree in Accounting. Maclen has been the lead audit manager for numerous governmental entities and non-profits. Specifically, a few examples of audits he has served as the lead audit manager on are; the City of Clovis, Northern Area Local Workforce Development Board, Office of the State Engineer/Interstate Stream Commissioner.

Maclen is a member of the American Institute of Certified Public Accountants (AICPA) and the New Mexico Society of Certified Public Accountants (NMSCPA).

Below are some audits that Maclen has been involved with:

<table>
<thead>
<tr>
<th>Example of Prior Relevant Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Clovis</td>
</tr>
<tr>
<td>Southern Area Workforce Development Board</td>
</tr>
<tr>
<td>Office of the State Engineer/ Interstate Stream Commissioner</td>
</tr>
<tr>
<td>Eastern Area Workforce Development Board</td>
</tr>
<tr>
<td>City of Alamogordo</td>
</tr>
<tr>
<td>Northern Area Local Workforce Development Board</td>
</tr>
<tr>
<td>South Central NM Council of Governments</td>
</tr>
<tr>
<td>Eastern Plains Council of Governments</td>
</tr>
<tr>
<td>11th Division 1, Judicial District Attorney's Office</td>
</tr>
<tr>
<td>NM Department of Military Affairs</td>
</tr>
</tbody>
</table>

Please see Maclen’s resume and continuing professional education under the appendix tabs for more details.
Proposed Staff, (Cont.)

Below are examples of audits that Sara has been involved with:

<table>
<thead>
<tr>
<th>Example of Prior Relevant Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Central Regional Transit District</td>
</tr>
<tr>
<td>City of Alamogordo</td>
</tr>
<tr>
<td>South Central NM Council of Governments</td>
</tr>
<tr>
<td>Northern Area Local Workforce Development Board</td>
</tr>
<tr>
<td>Eastern Plains Council of Governments</td>
</tr>
</tbody>
</table>

Please see Sara’s resume and continuing professional education under the appendix tabs for more details.

Audit Clients

The following table breaks down the number of private and public clients that Hinkle + Landers, PC has served in the last 2 years. Additionally, the table shows the percentage of business revenue that is received from each category.

<table>
<thead>
<tr>
<th>Experience</th>
<th>Clients</th>
<th>Percentage of Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public</td>
<td>71</td>
<td>85%</td>
</tr>
<tr>
<td>Private</td>
<td>4</td>
<td>15%</td>
</tr>
<tr>
<td>Total Clients</td>
<td>75</td>
<td></td>
</tr>
</tbody>
</table>

Successes and Failures

Hinkle + Landers works hard to make sure every audit engagement in a successful one. This past season we had some audit engagements that were more difficult than others. The following is a summary of two engagements that were difficult, and the methods used to ensure completion of the audits.

1. In one instance, a multi-fund auditee was not tracking the activity within the funds correctly. Activity was being spread across all funds and between different fiscal years. As a result, this caused the net assets not to reconcile properly. In order to determine why the net assets were not reconciling properly, and audit manager sat with the client during the on-site fieldwork.
Successes and Failures, (Cont.)

The engagements that were more successful in prior years are the direct result of the auditee and auditor working together, and almost all deliverables being provided ahead of the fieldwork. The following is a summary of two engagements that were successes.

1. Both successful engagements were the direct result of the auditee actively gathering all the information requested in the Audit Assistance list, and uploading it to Hinkle + Landers’ secure client portal prior to fieldwork. When items were uploaded it allowed us to begin the audit process from our office in Albuquerque. We are able to begin confirming balance sheet account balances, along with preparing samples to send back to the auditee for review during fieldwork. Since Hinkle + Landers strives to be a paperless CPA firm, it facilitates the audit process when we receive the deliverables prior to the fieldwork and the client is able to monitor our work more effectively. In our most successful audits, we are able to address questions and issues earlier.

2. Organizational References

#1: Doña Ana County

A. Client Name: Doña Ana County

B. Project Description: Performed an independent audit of the County’s financial records for fiscal year ended June 30, 2015, in compliance with the Government Auditing Standards (Yellow Book), the Office of the State Auditor’s Rule of Compliance, and a Single Audit of the expenditures of Federal Funds.

C. Project Dates: Fiscal Years 2010 through 2015

D. Technical Environment:

Type of Auditee: Local Government

Multi-Fund – Governmental Activities, Business-Type Activities, Fiduciary/Agency Funds

Staff Size: Approximately 815 employees
2. Organizational References, (Cont.)

#2: Northern Area Local Workforce Development Board (Cont.)

Federal Expenses in FY 2015: Approximately $2.5 million

E. Audit Staff in Past 3 Years Included in this RFP:

- Farley Vener, CPA, CFE, CGMA (Engagement Partner)
- Maclen Enriquez, CPA (Audit Manager)
- Sara Heppler, CPA (Audit Staff)

F. Client Information

Name: Sara Jones
Telephone Number: (505) 986-0363 ext. 9
Fax Number: (505) 986-0374
Email Address: sara@nalwdb.org

#3: City of Clovis

A. Client Name: City of Clovis

B. Project Description: Performed an independent audit of the City’s financial records for fiscal year end June 30, 2015, in compliance with the Government Auditing Standards (Yellow Book), the Office of the State Auditor’s Rule of Compliance, and a Single Audit of the expenditures of Federal Funds.

C. Project Dates: Fiscal Years 2009 through 2015

D. Technical Environment:

Type of Auditee: Local Government
Multi-Fund – Governmental Activities, Business-Type Activities, Fiduciary/Agency Funds
Staff Size: Approximately 415 employees
3. Financial Stability, (Cont.)

Hinkle + Landers, PC, undergoes periodic external reviews of its audits, reviews and compilation work by various entities. As required under the rules of membership of the American Institute of Certified Public Accountants and the New Mexico Society of CPAs, we submit to review our audit reports and work papers on a periodic basis. Our last peer review was completed March 14, 2014 by Stone, McGee & Co. We received an unmodified opinion on the quality of our practice and the effectiveness of our quality control procedures and no letter of comments. This is the highest standard that can be achieved in a peer review. A copy of this report is attached in the peer review section of this proposal.
APPENDIX A

CAMPAIGN CONTRIBUTION DISCLOSURE FORM
“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: ____________________________

Relation to Prospective Contractor: ____________________________

Name of Applicable Public Official: ____________________________

Date Contribution(s) Made: ____________________________

Amount(s) of Contribution(s) ____________________________

Nature of Contribution(s) ____________________________

Purpose of Contribution(s) ____________________________

(Attach extra pages if necessary)

__________________________  ____________________________
Signature                    Date

__________________________
__________________________
FIRM PROFILE

The office of Hinkle and Landers has been serving clients since 1972, when William (Bill) Hinkle moved to Albuquerque from Denver, Colorado. In 1974, Bill incorporated his proprietorship, doing business as Bill Hinkle, CPA. Roberto Martinez, CPA joined as audit partner in the mid 80's. Nick Landers joined the firm as well, and became a shareholder in 1998. In 1999 the firm name was changed from Hinkle & Martinez to Hinkle + Landers, PC when Martinez moved out of state to care for his aging parents. In 2011, Farley Vener, CPA, CFE, who has been with the firm for eighteen years, became the President and Managing Shareholder of the firm.

Hinkle + Landers strives to serve the individual needs of each client with compassion and attention to detail, to assure that the client's needs are met with quality work. These goals require that our experienced accountants remain up-to-date on the latest interpretations of the tax law and accounting pronouncements which are essential to a secure future. Our principal auditors keep abreast of changes in laws and reporting requirements allowing us the familiarity of the specific technical demands of auditing nonprofits and governments. Your organization will benefit directly from this vast experience and deep expertise.

Hinkle + Landers has a long history of providing accounting services, for-profit, nonprofits and governmental entities as well as pension plans. Hinkle + Landers has the resources, personnel, and experience to perform audits for small or large entities. Regardless of the size of an organization, each client receives high quality, local service and our focused attention.

We understand that clients expect the services of their professional accounting firm to extend beyond the financial statements. We welcome the opportunity to serve, not only as auditors, but also as interested consultants who help you succeed in achieving the goals contained within your mission statement. We are willing to look past the accounting entries and audit work into what will assist your operation to work more efficiently and smoothly. Believing that communication is vital during each audit, we welcome your questions while conducting your audit with minimal intrusion to you and your organization. Additionally, you will have our cell phone numbers to contact us throughout the year with any questions. We are truly your year-round service provider.

Selected other services we provide include: financial planning, strategic business planning, tax preparation, consulting, accounting software counseling, fund raising, bookkeeping, payroll services, agreed upon procedures, as well as forensic audits and compliance reviews.
STATE OF NEW MEXICO
TAXATION AND REVENUE DEPARTMENT

RESIDENT BUSINESS CERTIFICATE

Issued to: HINKLE & LANDERS, PC
DBA: HINKLE & LANDERS, PC
2000 9TH ST NW
ALBUQUERQUE, NM 87102-1055

Expires: 29-APR-2016

Certificate Number: L1200282432

Demesia Padilla, CPA, Cabinet Secretary
New Mexico Society of CPAs
Peer Review Program

Certificate of Recognition

to

Hinkle + Landers, PC

For having a system of quality control designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and which was complied with during the year ended 9/30/2013, which has been designed to provide the firm with reasonable assurance of conforming with professional standards.

John A. Carey, President
New Mexico Society of Certified Public Accountants
FARLEY VENER, CPA, CFE, CGMA
PRESIDENT AND MANAGING SHAREHOLDER

Certification Information:

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<th>State of Issuance</th>
<th>Certificate Number</th>
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<td>CPA</td>
<td>10/20/2009</td>
<td>New Mexico</td>
<td>5122</td>
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<tr>
<td>CFE</td>
<td>1/15/2005</td>
<td>N/A</td>
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Education:
- Post-graduate courses in Accounting, May, 1995
- Post-graduate courses in Education, December, 1993
- BBA in Marketing Management, University of New Mexico, December, 1989
- Certified Public Accountant (CPA) License Number 5122
- Certified Fraud Examiner (CFE) License Number 130701

Experience: 19 years

Career Experience:
- July 2011, to present, Hinkle + Landers, P.C., President and Managing Shareholder
- September 2002 to June 2011, Hinkle + Landers, P.C., Vice-President and Shareholder
- February 1997 to September 2002, Hinkle + Landers, P.C., Staff, Senior and Manager
- August 1996 to January 1997, Chester Mattocks, CPA, Albuquerque, NM, Staff Auditor

Professional Organizations:
- American Institute of Certified Public Accountants 1997-present
- New Mexico Society of Certified Public Accountants 1997-present
- Association of Certified Fraud Examiners 2004-present
- Association of Governmental Accountants 2008-present
- Executive Association of Greater Association June 2011 to present
- New Mexico Society Peer Review Committee 2003-2010

All Audits with an asterisk, denote that an OMB A-133 Single Audit was also conducted.

Non-Profit Healthcare Clinics
1. First Nations Community Health Source
2. El Centro Family Health Center
3. Hidalgo Medical Services
4. Pecos Valley Medical Center
5. Mora Valley Community Health Services
6. La Clinica de Familia
7. La Clinica del Pueblo de Rio Arriba

* 2010 - 2014
* 2011 - 2014
* 2014 - 2014
* 2010 - 2013
* 2008 - 2012
* 2003 - 2011
* 2003 - 2008
FARLEY VENER, CPA, CFE, CGMA
PRESIDENT AND MANAGING SHAREHOLDER

42. New Mexico Primary Care Association 1999 - 2007
43. PB&J Family Services, Inc. w/single audit * 2003 - 2007
44. RCI 2006 - 2006
45. New Mexico Manufacturing Extension Partnership w/single audit * 2005 - 2005
46. Sickle Cell Council of New Mexico, Inc. 1999 - 2004
47. New Mexico MESA, w/single audit * 2003 - 2004
50. New Mexico Baptist Church Finance Corporation 1998 - 2003
51. New Mexico Baptist Foundation 1998 - 2003
52. Christian Broadcasting Academy (KLYT) 1997 - 2002
53. Ganados Del Valle 1999 - 2002
58. Tree New Mexico 1998 - 1998
59. Cooperative Regional Educational Center 1997 - 1997

Churches:
1. Sandia Presbyterian Church 1998 - 2014
   3. Asbury United Methodist Church 2000 - 2011
   4. The Cathedral Church of St. John's 2007 - 2011
   5. Emmanuel Baptist Church of Farmington 2005 - 2005

Non-Profit Private Foundations
1. Con Alma Health Foundation 2007 - 2013
2. Fredericks Hammersley Foundation 2012 - 2012

Common Interest Realty Association Audits:
1. Tanoan Community Homeowner's Association 2003 - 2014
4. RainbowVision of Santa Fe Homeowners' Association 2011 - 2013

For Profit Businesses:
1. The Downs at Albuquerque Racetrack and Casino 2006 - 2014
2. Native Resources Development Inc. 2008 - 2014
3. Aviata, LLC 2013 - 2014
4. Southwest Child Care, Inc. 2013 - 2014
FARLEY VENER, CPA, CFE, CGMA
PRESIDENT AND MANAGING SHAREHOLDER

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<td>23. New Mexico Department of Cultural Affairs</td>
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<td>24. Cooperative Educational Services</td>
<td>2013 - 2013</td>
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<td>25. Workforce Connection of Central New Mexico</td>
<td>* 2003 - 2009</td>
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<td>27. 7th Judicial District Attorney’s Office</td>
<td>2007 - 2008</td>
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<td>28. NM Department of Tourism</td>
<td>2002 - 2007</td>
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<td>29. 13th Judicial District Attorney’s Office</td>
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<td>30. 2nd Judicial District Attorney’s Office</td>
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<td>31. New Mexico Department of Labor</td>
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<td>32. New Mexico Martin Luther King Jr. Commission</td>
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<td>33. New Mexico Public Education Department</td>
<td>* 2001 - 2002</td>
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<td>34. New Mexico Department of Energy and Minerals</td>
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<td>35. NM Department of Worker’s Compensation</td>
<td>1998 - 1999</td>
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<td>37. The Supreme Court of New Mexico</td>
<td>* 1996 - 1996</td>
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<td>38. The Court of Appeals of New Mexico</td>
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Municipal and County Audits:

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<tr>
<td>1. City of Clovis</td>
<td>* 2009 - 2015</td>
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<tr>
<td>2. Dona Ana County</td>
<td>* 2010 - 2015</td>
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<td>3. Socorro County</td>
<td>* 2014 - 2015</td>
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<td>7. City of Belen</td>
<td>* 2004 - 2008</td>
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<td>8. Valencia County</td>
<td>* 2001 - 2006</td>
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<td>9. City of Espanola</td>
<td>* 2005 - 2005</td>
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<td>10. Village of Bosque Farms</td>
<td>* 2002 - 2004</td>
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<td>11. Village of Corrales, lodger’s tax audit</td>
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<td>12. Village of Corrales, special audit of the Village Court</td>
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Local Governmental Special Districts

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<td>1. Eastern New Mexico Water Utility Authority</td>
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<td>2. Camino Real Regional Utility Authority</td>
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<td>3. Middle Rio Grande Conservancy District</td>
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Housing Authorities

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<tr>
<td>2. County of Dona Ana Housing Authority</td>
<td>* 2010 - 2012</td>
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<tr>
<td>3. City of Espanola Housing Authority</td>
<td>* 2005 - 2005</td>
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MACLEN ENRIQUEZ
AUDIT MANAGER

Education:
Bachelor of Business Administration - Accounting, University of New Mexico, May 2009
Graduated Magna Cum Laude

Experience: 6 years completed May 31, 2015

Career Experience:
June 2009 to present, Hinkle + Landers, P.C. Albuquerque, NM, Audit Manager

Professional Organizations:
New Mexico Society of Certified Public Accountants, 2009-Present

Audits with an asterisk, denote that an OMB A-133 Single Audit was also conducted.

Not-For-Profit Organizations Audits:
2. Supportive Housing Coalition of New Mexico 2011 - 2014
4. AMHHC Project #I, In. HUD Project #116-HD012 2009 - 2014
5. Forest Guild 2011 - 2014
6. National Alliance of Mental Illness, New Mexico 2010 - 2014
7. National Hispanic Cultural Center Foundation 2009 - 2014
8. Manuelito Navajo Children's Home 2010 - 2013
9. Rape Crisis Center of Central New Mexico 2009 - 2013
10. First Nations Community HealthSource, Inc. 2011 - 2012
11. Transitional Living Services 2009 - 2012
12. New Mexico Coalition Against Domestic Violence 2010 - 2011
16. Community Health Charities 2009 - 2010
17. Con Alma Health Foundation 2010
18. NurseAdvice New Mexico 2010
19. WESST 2009
20. State of New Mexico Board of Bar Examiners 2009
21. Disability Services, Inc. 2009

Common Interest Realty Association Audits:
1. Tanoan Community Homeowner's Association 2009 - 2014
2. Hillcrest Park Condominium Homeowners' Association 2009 - 2014
3. Echo Ridge Cooperative 2011 - 2011
4. Park Plaza Condominium Homeowners' Association 2009
KATELYN CONSTANTIN
AUDIT MANAGER

Education:
Masters of Accounting, University of New Mexico, Anderson School of Management, 2011
Bachelor of Business Administration - Accounting, University of New Mexico, May 2010
Graduated Cum Laude

Experience: 4 years

Career Experience:
May 2011, to present, Hinkle + Landers, P.C., Audit Manager

All Audits with an asterisk, denote that an OMB A-133 Single Audit was also conducted.

Not-For-Profit Organizations Audits:
1. American Civil Liberties Union of New Mexico and Foundation 2010 - 2015
2. The Life Link and Controlled Affiliates * 2012 - 2015
3. New Mexico Wilderness Alliance 2015 - 2015
4. National Alliance of Mental Illness, New Mexico 2010 - 2014
5. Good Shepherd Center, Inc. 2011 - 2015
7. NurseAdvice New Mexico 2010 - 2014
11. Realtors Association of New Mexico 2014 - 2014
12. First Unitarian Church of Albuquerque 2014 - 2014
14. WESST * 2010 - 2013
15. Forest Guild * 2011 - 2013
16. Meals on Wheels 2011 - 2013
17. National Hispanic Cultural Center Foundation 2013 - 2013
18. Community Health Charities 2011

Non-Profit Healthcare Clinics
1. El Centro Family Health Center * 2011 - 2015
2. Hidalgo Medical Services * 2014 - 2015
3. First Nations Community Health Source * 2011 2014
4. Mora Valley Community Health Services * 2011 - 2012
KATELYN CONSTANTIN
AUDIT MANAGER

Employment Benefit Plans (ERISA)
   1. Hope Christian Schools 403(b) Plan  2010 - 2011

Limited Partnerships
   1. La Luz Limited Partnership  2012 - 2014

56. Total Entities
SARA HEPPLER, CPA
AUDIT STAFF

Not-For-Profit Organizations Review Services
1. African American Performing Arts Center Foundation, Inc. 2013 - 2014

Common Interest Realty Association Audits:
1. Echo Ridge Homes Cooperative, Inc. 2014

Schools, Local Governmental Higher Education and School Districts
1. Hope Christian Schools 2013 - 2014

State Agency Audits:
1. New Mexico Department of Military Affairs * 2014
4. North Central Regional Transit District * 2014
5. Ruth Visage Senior Apartments 2014

Municipal and County Audits:
1. City of Alamogordo * 2014

Housing Authorities
1. City of Alamogordo Housing Authority * 2014

For Profit Businesses:
1. The Downs at Albuquerque Racetrack and Casino 2014
2. Podzemny 2014

29. Total Entities
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AUDIT SERVICES FOR
NORTH CENTRAL REGIONAL
TRANSIT DISTRICT

March 7, 2016

Presented By:
Farley Vener, CPA, CFE, CGMA
President & Managing Shareholder
Hinkle + Landers, PC
Oral Presentation

• Taking NCRTD to the Next Level
• About Hinkle + Landers PC
• Audit Approach
• Audit Finding Process
• Audit Timeline
• District Staff
Taking NCRTD to the Next Level

- **Improve Budget Controls and Variances**
  - Federal Grants
  - GRT
  - Investment Income
  - Charges for Services
- **Review Repairs and Maintenance for Efficiency and/or Waste**
- **Review Policies and Procedures for Best Practices**
  - Ensure Tone at Top is Embedded in the Policies and Procedures
  - Specific Policies and Procedures for Federal Funds to Document Compliance with Super Circular
  - Promote Operational Efficiency and Governance
- **Improve Presentation of Financial Statements and Grouping**
  (add detail)
About Hinkle + Landers PC

- Established in 1972
- One of the Top 20 CPA firms in NM, Local, Friendly
- Vast Governmental Experience
- Knowledge of Yellow Book, Single Audit (OMB Super Circular), State Agencies, NM State Audit Rule
Full-Service Firm

- Assurance (Audit, Review, Compilation, AUP)
- Consulting
- Tax
- Fraud Prevention
- Forensic Audits
- Litigation Support
- Bookkeeping
- FS Preparation; Audit Liaison
- OSA Special Audits
Our NM Government Service

- We have a deep knowledge and variety of experience with Governmental and Non-profit entities, in particular NM State Agencies.

- We offer you our expertise in the forthcoming Yellow Book GAGAS, OMB Super Circular, and NM SAO Governmental Standards and Requirements.

- We focus on providing High-Quality and On-Time Audits. Our NM State Agencies are submitted on-time to the NM State Auditor.

- We maintain our personal, local, service to our clients year-round, partnering with you on continuous improvement.

- Appointed to the Public Accountancy Board of New Mexico, Peer Reviewer, Teach in-house CPE classes on Revenue Recognition for Grants and Contributions and Program Revenues, Yellow Book Internal Controls and OMB Super Circular.
Our NM Government Experience

- All Sizes of Entities:
  - North Central Regional Transit District
  - Dona Ana County
  - Northern Area Local Workforce Development Board
  - City of Clovis
  - Socorro County
  - City of Alamogordo
  - Northwest New Mexico Council of Governments
  - Office of the State Engineer/Interstate Stream Commission
  - 11th Division 1, Judicial District Attorney’s Office

- Working relationship with DFA, OSA, etc.

- Resources: Staff, Experience, Research, Time, Commitment, Follow-Through, 12/1

- Worked Closely on Fraud Risks and Cases with OSA
Audit Approach

TRANSITION TO HINKLE + LANDERS PC
- We Have Direct Experience with the District and Operations
- Update Internal Control Documentation
- GASB Implementation
- Seamless Transition

INDEPENDENCE
- No Conflicts of Interest
- Opinions are Formed by Sufficient Audit Evidence
- No Bias, Maintain Professional Skepticism
- Level of Unpredictability
- No Management Decisions
Audit Approach

RISK ASSESSMENT

- SAS 104-115 requirements
  - Understand the Entity
  - Assess Risks
  - Evaluate Audit Evidence
  - Communicate with Those Charged with Governance of the District
- Drives Our Testing, Samples, Scope
- Low Risk

PLANNING/INTERIM

- All Levels Involved – Higher Quality
- Managing Partner will be Deeply Involved
- Availability – On Track
Audit Approach

COMMUNICATION

- SAS 114 – Two-way communication
- PBC Listing is a Key Tool
- Timeline to Keep on Track
- Status Meetings (when needed)

NM OSA Compliance

- Test Compliance with Audit Rule

YELLOW BOOK GAGAS

- Report on internal controls and compliance requirements

OMB SUPER CIRCULAR

- Updated Requirements
Audit Approach

**FINAL**

- TB, SEFA is Final
- **Test:** OMB Super Circular, FS Account Balances, Budget, OSA Compliance
- Assistance FS Preparation
- Commitment, Staffing
- **On-time Submission to SAO; December 1st or Earlier**

**EACH YEAR**

- Continuous Improvement Auditor/Auditee
- After Issuance, Regroup to Plan Next Year
- Re-engineer Work
- Review NCRTD Policies & Procedures Changes
- Meetings, Calls Throughout the Year
- Long-Term Relationship
Audit Finding Process

WORKING THROUGH EXCEPTIONS TOGETHER

- As Identified – District Management
- Time, Opportunity to Clear/Resolve
- Ensure Understanding
- Track in Status Meetings – District Management
- Drafting Findings
- Management Responses
- Final Report
- Corrective Action Plan
- GAGAS – Auditors Follow Up Next Year
Audit Timeline: Plan to Finish

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Year End</td>
<td>Engagement Planning</td>
<td>Fieldwork</td>
<td>Draft Financials/ Audit Report</td>
<td>Present Final Audit Draft to Finance Committee</td>
<td>Submit Audit &amp; Other Required Items to OSA</td>
<td>Present to Full Board &amp; Public</td>
</tr>
<tr>
<td>(PBC List Sent)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
District Staff

COLLABORATION FOR EFFICIENCY & EFFECTIVENESS

- High Level of Communication
- Quest for Excellence
- Integrity
- Accountability
- Tone at Top
- Respect
- Problem-Solving Focus
- Prepared by Client listing
- Realistic Timeline
# APPENDIX C

## COST RESPONSE FORM

### VI. Fee and Hour Breakdown

<table>
<thead>
<tr>
<th>Category</th>
<th>The first year of our 3-year procurement was FY2016</th>
<th>The second year of our 3-year procurement was FY2017</th>
<th>The third year of our 3-year procurement was FY2018</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Year 1 Hours</td>
<td>Year 1 Cost</td>
<td>Year 2 Hours</td>
</tr>
<tr>
<td>Financial Statement Audit</td>
<td>130</td>
<td>$16,300</td>
<td>133</td>
</tr>
<tr>
<td>Financial Statement Preparation</td>
<td>20</td>
<td>2,500</td>
<td>20</td>
</tr>
<tr>
<td>Federal Single Audit</td>
<td>26</td>
<td>3,200</td>
<td>26</td>
</tr>
<tr>
<td>Other Allowed Non-Audit Services</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Component Units</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Other:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide consultation on small accounting matters and respond to questions that arise from time to time throughout the year.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>176</td>
<td>22,000</td>
<td>178</td>
</tr>
<tr>
<td>Plus Gross Receipts Tax @ 7.1875%</td>
<td></td>
<td>1,581</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>176</strong></td>
<td><strong>23,581</strong></td>
<td><strong>178</strong></td>
</tr>
</tbody>
</table>

Note that our fees are all-inclusive (travel, overhead, etc.)
STATE OF NEW MEXICO
AUDIT CONTRACT
(CAFR)

North Central Regional Transit District
hereinafter referred to as the "Agency," and

Hinkle + Landers, PC
hereinafter referred to as the "Contractor," agree:

As required by the Audit Rule, NMAC Section 2.2.2.1 et seq., Contractor agrees to, and shall, inform the Agency of any restriction placed on Contractor by the Office of the State Auditor pursuant to NMAC Section 2.2.2.8, and whether the Contractor is eligible to enter into this Contract despite the restriction.

1. **SCOPE OF WORK** (Include in Paragraph 26 any expansion of scope)

   A. The Contractor shall prepare an audited Comprehensive Annual Financial Report for Fiscal Year 2016:

      1. Basic Financial Statements consisting of the government-wide financial statements, fund financial statements, budgetary comparison statements for the general fund and major special revenue funds (GASB 34, footnote 53), and the notes to the financial statements;

      2. Required supplemental information (RSI), if applicable, consisting of budgetary comparison schedules for the general fund and major special revenue fund data presented on a fund, organization, or program structure basis because the budgetary information is not available on the GAAP fund structure basis for those funds (GASB Statement No. 41, Budgetary Comparison Schedules-Perspective Differences an amendment of GASB Statement No. 34) must be audited and included in the auditor's opinion (AAG-SLV 15.65);

      3. Supplemental Information (SI) that must be audited and included in the auditor's opinion (AAG-SLV 15.65), if applicable, consisting of:

         a. Component unit fund financial statements and related combining statements (if there are no separately issued financial statements on the component unit per AAG-SLV 3.22);

         b. Combining financial statements;

         c. Individual fund budget comparison statements for remaining funds that have an adopted budget, including proprietary funds, that did not appear as basic financial statement budget comparisons for the general fund, major special revenue funds or as RSI as described above; and

         d. Remaining supplemental information on schedules as required by NMAC Section 2.2.2.10.A(2)(f).

   B. The contractor shall apply certain limited procedures to the following required supplemental information (RSI), if applicable, and report deficiencies in or the omission of required information in accordance with the requirements of AU-C 730.05 to 730.09:

      1. The Management Discussion and Analysis (MD&A);

      2. RSI data required by Statements 25, 27, 43, 45, 67 and 68 regarding pension plans and post-employment healthcare plans administered by defined benefit pension plans; and

      3. Schedules derived from asset management systems (GASB 34, paragraphs 132 to 133).
C. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, Government Auditing Standards, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and Requirements for Contracting and Conducting Governmental Audits (NMAC Section 2.2.2.1, et seq.).

2. DELIVERY AND REPRODUCTION

A. In order to meet the delivery terms of this Contract, the Contractor shall deliver the following documents to the State Auditor no later than February 15, 2015, and in accordance with NMAC Section 2.2.2.9:

1. an organized, bound and paginated hard copy of the Agency's audit report for review;

2. a copy of the signed management representation letter provided to the IPA by the Agency as required by AU-C580; and


B. In accordance with FCD requirements, the Agency, with the help of the Contractor, shall identify a schedule of audit deliverables and agreed-to milestones for the audit to ensure that the Agency's books and records are ready and available for audit and the Contractor delivers services on time. This requirement does not prevent the Contractor from performing interim audit work prior to receipt of the DFA notice of agency preparedness.

C. Reports postmarked by the Agency's due date will be considered received by the due date for purposes of NMAC Section 2.2.2.9. Unfinished or excessively deficient reports will not satisfy this requirement; such reports will be rejected and returned to the Contractor and the State Auditor may take action in accordance with NMAC Section 2.2.2.13. If the State Auditor does not receive copies of the engagement letter, management representation letter, and the completed Report Review Guide with the audit report or prior to submittal of the audit report, the State Auditor will not consider the report submitted to the State Auditor.

D. As soon as the Contractor becomes aware that circumstances exist that will make the Agency's audit report late, the Contractor shall immediately provide written notification of the situation to the State Auditor. The notification shall include an explanation regarding why the audit report will be late, when the IPA expects to submit the report and a concurring signature by the Agency. The State Auditor shall also notify the Agency's oversight agency, but confidential information shall be omitted from that notification.

E. Pursuant to NMAC Section 2.2.2.8, the Contractor shall prepare a written and dated engagement letter that identifies the specific responsibilities of the Contractor and the Agency.

F. After its review of the audit report pursuant to NMAC Section 2.2.2.13, the State Auditor shall authorize the Contractor to print and submit the final audit report. Within five business days from the date of the authorization to print and submit the final audit report, the Contractor shall provide the State Auditor with TWO copies of the report, an electronic version of the audit report, in PDF format and the electronic copy of the Excel version of the Summary of Findings Form. After the State Auditor officially releases the audit report by issuance of a release letter, the Contractor shall deliver 25 copies of the audit report to the Agency. The Agency or IPA shall ensure that every member of the Agency's governing authority shall receive a copy of the report.

G. The Agency, upon delivery of its audit report, shall submit to the Federal Audit Clearinghouse (FAC) the completed data collection form and the reporting package described in §200.512 of Uniform Guidance for Federal Awards. The submission is required to be made within 30 calendar days of receipt of the auditor's report, or nine months after the end of the audit period.

3. COMPENSATION

A. The total amount payable by the Agency to the Contractor under this Contract, including New Mexico gross receipts tax and expenses, shall not exceed $23,581.00.

B. Contractor agrees not to, and shall not, perform any services in furtherance of this Contract prior to approval by the State Auditor. In accordance with Section 12-6-14(A), NMSA 1978, and NMAC Section 2.2.2.8, Contractor acknowledges and agrees that it will not be entitled to payment or compensation for any services performed by Contractor pursuant to this Contract prior to approval by the State Auditor.

C. Total Compensation will consist of the following:

<table>
<thead>
<tr>
<th>SERVICES</th>
<th>AMOUNTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Financial statement audit</td>
<td>$16,300.00</td>
</tr>
<tr>
<td>(2) Federal single audit</td>
<td>$3,200.00</td>
</tr>
<tr>
<td>(3) Financial statement preparation</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>(4) Other nonaudit services, such as depreciation schedule updates</td>
<td>$0.00</td>
</tr>
<tr>
<td>(5) Other (i.e., foundations or other component units, specifically identified)</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

Gross Receipts Tax = $1,581.00
D. The Agency shall pay the Contractor the New Mexico gross receipts tax levied on the amounts payable under this Contract and invoiced by the Contractor. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below.

E. Pursuant to Section 12-6-14, NMSA 1978 and NMAC Section 2.2.2.8, the State Auditor may authorize progress payments to the Contractor by the Agency; provided that the authorization is based upon evidence of the percentage of audit work completed as of the date of the request for partial payment. Progress payments up to 70% do not require State Auditor approval, provided that the Agency certifies receipt of services. The Agency must monitor audit progress and make progress payments only up to the percentage that the audit is completed prior to making such payment. Progress payments of 70% or more but less than or equal to 90% require State Auditor approval after being approved by the Agency. If requested by the State Auditor, the Agency shall provide a copy of the approved progress billings. The State Auditor may allow only the first 50% of progress payments to be made without State Auditor approval if the Contractor's previous audits were submitted after the due date. Final payment for services rendered by the Contractor shall not be made until a determination and written finding is made by the State Auditor in the release letter that the audit has been made in a competent manner in accordance with the provisions of this Contract and applicable rules of the State Auditor.

4. **TERM.** THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE STATE AUDITOR AND THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION. Unless terminated pursuant to Paragraphs 5 or 19, this Contract shall terminate one calendar year after the date on which it is signed by the Department of Finance and Administration.

5. **TERMINATION, BREACH AND REMEDIES**

   A. This Contract may be terminated:
      1. By either party without cause, upon written notice delivered to the other party and the State Auditor at least ten (10) days prior to the intended date of termination.

      2. By either party, immediately upon written notice delivered to the other party and the State Auditor, if a material breach of any of the terms of this Contract occurs. Unjustified failure to deliver the report in accordance with Paragraph 2 shall constitute a material breach of this Contract.

      3. By the Agency pursuant to Paragraph 19, immediately upon written notice to the Contractor and the State Auditor.

      4. By the State Auditor, immediately upon written notice to the Contractor and the Agency after determining that the audit has been unduly delayed, or for any other reason.

   B. By termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. If the Agency or the State Auditor terminates this Contract, the Contractor shall be entitled to compensation for work performed prior to termination in the amount of earned, but not yet paid, progress payments, if any, that the State Auditor has authorized to the extent required by Paragraph 3(E). If the Contractor terminates this Contract for any reason other than Agency's breach of this Contract, the Contractor shall repay to the Agency the full amount of any progress payments for work performed under the terms of this Contract.

   C. Pursuant to NMAC Section 2.2.2.8, the State Auditor may disqualify the Contractor from eligibility to contract for audit services with the State of New Mexico if the Contractor knowingly makes false statements, false assurances or false disclosures under this Contract. The State Auditor on behalf of the Agency or the Agency may bring a civil action for damages or any other relief against a Contractor for a material breach of this Contract.

   D. **THE REMEDIES HEREIN ARE NOT EXCLUSIVE, AND NOTHING IN THIS SECTION 5 WAIVES OTHER LEGAL RIGHTS AND REMEDIES OF THE PARTIES.**

6. **STATUS OF CONTRACTOR**

   The Contractor and its agents and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles or any other benefits afforded to employees of the Agency as a result of this Contract. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed under this Contract unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. **ASSIGNMENT**

   The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract.

8. **SUBCONTRACTING**

   The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the Agency and the State Auditor. An agreement between the Contractor and a subcontractor to subcontract any portion of the services under this
Contract shall be completed on a form prescribed by the State Auditor. The agreement shall be an amendment to this Contract and shall specify the portion of the audit services to be performed by the subcontractor, how the responsibility for the audit will be shared between the Contractor and the subcontractor, the party responsible for signing the audit report and the method by which the subcontractor will be paid. Pursuant to NMAC Section 2.2.2.8, the Contractor may subcontract only with independent public accounting firms that are on the State Auditor’s List of Approved Firms, and that are not otherwise restricted by the Office from entering into such a contract.

9. RECORDS
The Contractor shall maintain detailed time records that indicate the date, time, and nature of services rendered during the term of this Contract. The Contractor shall retain the records for a period of at least five (5) years after the date of final payment under this contract. The records shall be subject to inspection by the Agency and the State Auditor. The Agency and the State Auditor shall have the right to audit bills both before and after payment. Payment under this Contract shall not foreclose the right of the Agency or the State Auditor on behalf of the Agency to recover excessive or illegal payments.

10. RELEASE
The Contractor, upon receiving final payment of the amounts due under the Contract, releases the State Auditor, the Agency, their respective officers and employees and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Contract. This paragraph does not release the Contractor from any liabilities, claims or obligations whatsoever arising from or under this Contract.

11. CONFIDENTIALITY
All information provided to or developed by the Contractor from any source whatsoever in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor, except in accordance with this Contract or applicable standards, without the prior written approval of the Agency and the State Auditor.

12. PRODUCT OF SERVICES; COPYRIGHT AND REPORT USE
Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. The Agency and the State Auditor may post an audited financial statement on their respective websites once it is publicly released by the State Auditor. The Contractor agrees that the FCD of DFA is free to use the audited financial statements in the statewide Comprehensive Annual Financial Report (CAFR) and that the Contractor's audit report may be relied upon during the audit of the statewide CAFR, if applicable. However DFA should not provide to any third party, other than the CAFR auditor, the draft audit report or its opinion letters or findings.

13. CONFLICT OF INTEREST
The Contractor represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Contract. Each of the Contractor and the Agency certifies that it has followed the requirements of the Governmental Conduct Act, Section 10-16­1, et seq., NMSA 1978, regarding contracting with a public officer, state employee or former state employee, as required by the applicable professional standards.

14. INDEPENDENCE
The Contractor represents and warrants its personal, external and organizational independence from the Agency in accordance with the Government Auditing Standards 2011 Revision, issued by the Comptroller General of the United States, and NMAC Section 2.2.2.8. The Contractor shall immediately notify the State Auditor and the Agency in writing if any impairment to the Contractor's independence occurs or may occur during the period of this Contract.

15. AMENDMENT
This Contract shall not be altered, changed or amended except by prior written agreement of the parties and with the prior written approval of the State Auditor. Any amendments to this Contract shall comply with the Procurement Code, Sections 13-1­28 through 13-1­199, NMSA 1978.

16. MERGER
This Contract supersedes all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. Contractor and Agency shall enter into and execute an engagement letter pursuant to NMAC Section 2.2.2.8, consistent with Generally Accepted Auditing Standards (GAAS) and Government Auditing Standards (GAGAS). The engagement letter and any associated documentation included with or referenced in the engagement letter shall not be interpreted to amend this Contract. Conflicts between the engagement letter and this Contract are governed by this Contract, and shall be resolved accordingly.

17. APPLICABLE LAW
The laws of the State of New Mexico shall govern this Contract. By execution of this Contract, Contractor irrevocably consents to the exclusive personal jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising from or related to this Contract.
18. **AGENCY BOOKS AND RECORDS**

The Agency is responsible for maintaining control of all books and records at all times and the Contractor shall not remove any books and records from the Agency's possession for any reason.

19. **APPROPRIATIONS**

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the legislature or the Agency's governing body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature or the Agency's governing body, this Contract shall terminate upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This section of the Contract does not supersede the Agency's requirement to have an annual audit pursuant to Section 12-6-3(A) NMSA 1978.

20. **PENALTIES FOR VIOLATION OF LAW**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

21. **EQUAL OPPORTUNITY COMPLIANCE**

The Contractor shall abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico pertaining to equal employment opportunity. In accordance with all such laws, rules, regulations and orders, the Contractor assures that no person in the United States shall, on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation or gender identity be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If the Contractor is found not to be in compliance with these requirements during the life of this Contract, the Contractor shall take appropriate steps to correct these deficiencies.

22. **WORKING PAPERS**

A. The Contractor shall retain its working papers of the Agency's audit conducted pursuant to this Contract for a period of at least five (5) years after the date shown on the opinion letter of the audit report, or longer if requested by the federal cognizant agency for audit, oversight agency for audit, pass through-entity or the State Auditor. The State Auditor shall have access to the working papers at the State Auditor's discretion. When requested by the State Auditor, the Contractor shall deliver the original or clear, legible copies of all working papers to the requesting entity.

B. The Contractor should follow the guidance of AU-C 210 A.2 to A.31 and AU-C 510.3 to .A9 in communications with the predecessor auditor and to obtain information from the predecessor auditor's audit documentation.

23. **DESIGNATED ON-SITE STAFF**

The Contractor's on-site individual auditor responsible for supervision of work and completion of the audit is Farley Vener. The Contractor shall notify the Agency and the State Auditor in writing of any changes in staff assigned to perform the audit.

24. **INVALID TERM OR CONDITION**

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected.

25. **EMPLOYEE PAY EQUITY REPORTING**

A. If it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification at any time during the term of this Contract, the Contractor shall complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If the Contractor has (250) or more employees the Contractor shall complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. For contracts that are extended beyond one (1) calendar year, the Contractor shall also complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. If the Contractor does not meet the size requirement for reporting a contract award but subsequently grows such that they meet or exceed the size requirement for reporting, the Contractor shall provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. The Contractor shall also impose this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. If one or more subcontractor does not meet the size requirement for reporting a contract award but subsequently grows such that they meet or exceed the size requirement for reporting, the Contractor shall submit the required report for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. The Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. The Contractor acknowledges that this subcontractor requirement applies even though Contractor itself may not meet the size requirement for reporting and be required to report itself.
B. If this Contract was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

26. OTHER PROVISIONS
   NCRTD will print the final CAFRs for the Board, but IPA should have 7 copies for Finance Subcommittee
SIGNATURE PAGE

This Contract is made effective as of the date of the signature of the Department of Finance and Administration.

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>CONTRACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Central Regional Transit District</td>
<td>Hinkle + Landers, PC</td>
</tr>
</tbody>
</table>

PRINTED NAME: ___________________________ PRINTED NAME: ___________________________
SIGNATURE: ___________________________ SIGNATURE: ___________________________
TITLE: ___________________________ TITLE: ___________________________
DATE: ___________________________ DATE: ___________________________

This Contract has been approved by:

DEPT. OF FINANCE & ADMINISTRATION
CONTRACTS REVIEW BUREAU

BY: ___________________________
DATE: ___________________________
DATE: ___________________________

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State of New Mexico to pay gross receipts and compensating taxes.

ID No. ___________________________
By: ___________________________
Date: ___________________________

State Auditor Contract No. 16 - 4026
February 12, 2016

List of Respondents to RFP#2016-002 Financial Audit Services

Axiom Certified Public Accountants and Business Advisors LLC
316 Osuna Road NE
Suite 401
Albuquerque, NM 87107

Burt & Company CPAs, LLC
4101 Indian School Road NE
Suite 440
Albuquerque, NM 87110

Harshwal & Company LLP Certified Public Accountants
6739 Academy Road NE
Suite 130
Albuquerque, NM 87109

Hinkle + Landers Certified Public Accountants + Business Consultants
2500 9th Street NW
Albuquerque, NM 87102

Kubiak Melton & Associates, LLC
6747 Academy Road NE
Suite A
Albuquerque, NM 87109

Anthony J. Mortillaro
Executive Director

Governmental
Board of Directors

City of Española

City of Santa Fe

Town of Edgewood

County of Rio Arriba

County of Santa Fe

County of Los Alamos

County of Taos

Nambe’ Pueblo

Ohkay Owingeh Pueblo

Santa Clara Pueblo

Pueblo of Pojoaque

Pueblo of Tesuque

Pueblo de San Ildefonso
April 1, 2016

Troy Bingham
North Central Regional Transit District
1327 North Riverside Drive
Espanola, NM 87532

Re: Letter dated March 24, 2016

Dear Mr. Bingham,

Thank you for your letter dated March 24, 2016, requesting guidance on the rotation requirements of the 2016 Audit Rule (2.2.2.8.K(1)(i) NMAC) in relation to the Fiscal Year 2016 annual audit of the North Central Regional Transit District ("District").

The Office carefully evaluated your request. From your letter, we understand the District’s situation to be:

1. The District engaged in a competitive procurement effort using a Request for Proposals (RFP) which was issued in January 2016.
2. The District received multiple proposals in response to the RFP. The proposals were thoroughly evaluated by the District’s RFP Evaluation Committee and the incumbent firm of eight years, Hinkle + Landers ("Firm"), was determined to have submitted the most advantageous proposal due to the Firm’s understanding of the transit sector.
3. Despite the public availability of a draft of the 2016 Audit Rule on the website of the Office of the State Auditor ("Office"), and a public hearing and request for comments on the 2016 Audit Rule, the District was unaware of the change to the rotation requirements.

Experience with an agency’s operations exists in all auditor-agency relationships subject to the rotation rule, now and in the past. Furthermore, other agencies operate in the transit sector, including the Rio Metro Regional Transit District. Similarly, we believe that a number of other firms can offer the District the necessary transit sector experience. Finally, an extension is only a temporary solution to the ultimate need to find an alternative firm.

Based on our familiarity with all seventy firms eligible to conduct government audits in the state, and the fact that the District received five proposals in response to its RFP, the Office believes that the District can find multiple qualified auditors to perform its annual audit. However, because the District’s procurement process was in the advanced stages prior to the publication of the final 2016 Audit Rule the Office has determined that extraordinary circumstances exist which justify an
exemption, as required by 2.2.2.8.K(1)(iii) NMAC. Accordingly, Hinkle + Landers is permitted to perform the North Central Regional Transit District’s annual audit for fiscal year 2016. Please be advised that the exemption to the rotation rule is for one year only, therefore if the District elects to award the procurement to the Firm a new procurement will be necessary for the 2017 financial audit. If the District desires to accept a three year proposal beginning with fiscal year 2016 the Office encourages the District to consider selecting the second most advantageous proposal received in response to the January 2016 RFP.

In summary, the District is authorized to award the procurement for its fiscal year 2016 financial audit to the Firm. Beginning with fiscal year 2017, Hinkle + Landers is prohibited from bidding on the North Central Regional Transit District’s annual audit for a period of two years.

If you have any further questions please contact Emily Oster, CPA, Director of Quality Control, by phone at 505-476-3833 or by email at Emily.Oster@osa.state.nm.us.

Sincerely,

Sanjay Bhakta, CPA, CGFM, CFE, CGMA
Deputy State Auditor

cc: Hinkle + Landers
**Title:** Resolution 2016-11 Authorizing NCRTD Staff to Collaborate in Applying for Tribal Transportation Program Discretionary Program to Fund Jicarilla Apache Nation Transit Service and Future Transit Projects Benefitting Tribes within the NCRTD Service Area

**Prepared By:** Stacey McGuire, Planning, Projects & Grants Manager

**Summary:** Staff recently met with representatives from Jicarilla Apache Nation to discuss community needs, outline possible transit service options, funding mechanisms and opportunities to collaborate moving forward. As a result of these discussions, a survey has been created and will be shared with Tribal members to better define specific transit needs, a potential funding source- Tribal Transportation Program (TTP)- has been identified, and NCRTD and Jicarilla Apache Nation Staff look to collaborate on an application for new transit services between Dulce and Chama, NM.

Also, NCRTD Staff believes the TTP discretionary program provides an opportunity to plan and establish a regional Tribal travel training program that will provide education and support to area Tribal members on how to ride public transit, trip planning resources, and multimodal options and agency interconnectivity throughout the region. As the Regional Transit District, it seems most beneficial to collaborate and plan from an overarching regional travel training program perspective to maximize the use of existing transit services.

**Background:** At the October 2014 Board meeting, Rio Arriba County Manager Tomas Campos submitted a request for transit service to Jicarilla Apache Nation and the area near Dulce. Currently, the closest NCRTD transit route is the Chama route, which operates 5 days per week and provides transit between Chama and Española, New Mexico. The transit service requested would be designed to connect with the current Chama route, with Dulce located approximately 27 miles west of Chama on US-64.

The FY16 and FY17 budgets do not address how this particular request could be funded. Furthermore, the NCRTD five year service plan does not include service in this area as a recommendation. As such, Staff has identified a potential funding source- Tribal Transportation
Program (TTP) discretionary funding- that can be applied for to financially support the request for new service (operating and capital) to Jicarilla Apache Nation and Dulce, NM.

Based on Board direction provided at the October 2014 meeting, an initial needs assessment was performed. Staff traveled to Dulce to meet with Jicarilla Apache Nation Tribal Councilor Leon Reval in 2014 and discuss the possibilities of transit service.

Staff recently met with Santa Clara Pueblo representatives to discuss opportunities to request planning funds related to Tribal transit. As a result of said discussions, NCRTD Staff identified an opportunity to establish a program to educate and inform Tribal members on existing available transit services and to provide a platform from which new and/or unfamiliar passengers can become familiar with the available transit options in the region. The Tribal Travel training program concept would be approached from a regional perspective, with the NCRTD taking the lead as the regional transit provider, and NCRTD-member Pueblos in support and collaboration.

**Assessment:** According to census.gov, Jicarilla Apache Nation is estimated to maintain a population of around 2700 people, with the majority located in or near Dulce, NM. Expanding the North Central Regional Transit District’s service to include Jicarilla Apache Nation will create another transportation option for local residents which will improve access to essential services and employment, as well as access to Tierra Amarilla, the County seat.

The service requested may take into consideration multiple locations that the NCRTD could potentially serve. Dulce seems to be the most likely location for potential stops, with additional stop options along the routing (between Dulce and Chama) to serve the regional community. Possible bus stop locations in the area of Dulce include Jicarilla Apache Tribal Offices, a supermarket, a park and area lodging.

Current ridership levels on all NCRTD routes rarely reach capacity. To maximize usage of existing services, additional informational platforms as well as opportunities for community outreach and education are critical. As such, a regional Tribal travel training program will familiarize area residents with existing transit options.

**Recommended Action:** Staff recommends continued discussions with Jicarilla Apache Nation and Dulce area residents and stakeholders to better understand when and where the service would be most beneficial and most utilized. Additionally, Staff recommended Board approve Staff’s request to collaborate with Jicarilla Apache Nation to submit an application to fund new transit service between Dulce and Chama, NM.

Related to the creation and implementation of a Tribal travel training program, NCRTD Staff recommends that an application be submitted outlining a request to plan and implement Tribal travel training program to maximize ridership on current and future routes.

**Options/Alternatives:**
- Take no action, (not recommended);
- Direct Staff to collaborate with Jicarilla Apache Nation to create and submit an application to fund (operating and capital) new transit service; and direct Staff to apply on behalf of its Tribal members for funding to plan and implement a travel training program focused on Tribal communities; (recommended);
Direct Staff to not collaborate with Jicarilla Apache Nation on an application for Tribal Transportation funds for new transit service between Dulce and Chama, NM; and direct Staff to discontinue the pursuit of funding to establish a Tribal travel training program (not recommended).

**Fiscal Impact:** The Jicarilla Apache Nation TTP application intended to be submitted will include three levels of service from which FTA can select to award: a one-, three- and 5-day per week service level. It is anticipated that 3-4 round trips will be included in the route operating profile, with connections to the NCRTD 190 Chama route. Based on the aforementioned levels of service, it is estimated that annual operating costs would range from $65,000-$149,000, with an associated capital cost for one 14-passenger bus to be approximately $80,000.

TTP discretionary program does require a 10% local match. Jicarilla Apache Nation, to demonstrate its support for new transit services between Dulce and Chama, is committed to providing the 10% local match in the event that TTP is awarded.

The regional Tribal training program project is expected to consist of one 20 hour per week position, with an estimated cost of $25,000-$30,000. TTP discretionary program provides for a maximum of $25,000 planning allocation and does require a 10% local match. In the event that a regional Tribal travel training program project is awarded, the NCRTD is committed to providing the 10% local match component (and any additional cost beyond TTP award up to $10,000 additional).

**Attachments:**
Resolution 2016-11
FFY2016 TTP NOFO (Notice of Funding Opportunity)
North Central Regional Transit District (NCRTD)
Resolution 2016-11

A RESOLUTION AUTHORIZING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT TO APPLY FOR FEDERAL FUNDING THROUGH THE FFY2016 TRIBAL TRANSPORTATION PROGRAM FOR OPERATING AND CAPITAL FOR NEW TRANSIT SERVICE TO JICARILLA APACHE NATION AND DULCE, NM; AND FOR PLANNING AND IMPLEMENTATION OF A REGIONAL TRIBAL TRAVEL TRAINING PROGRAM

WHEREAS, the USDOT issued a notice for funding availability for the FFY2016 TRIBAL TRANSPORTATION PROGRAM on March 14, 2016; and

WHEREAS, final applications are due May 13, 2016; and

WHEREAS, the NCRTD received a request for transit service from Jicarilla Apache Nation (headquartered in Dulce, NM) in October 2014; and

WHEREAS, NCRTD and Jicarilla Apache Nation Staffs agree to collaborate on a TRIBAL TRANSPORTATION PROGRAM application submittal; and

WHEREAS, upon selection to receive TRIBAL TRANSPORTATION PROGRAM FFY2016 discretionary funds, the NCRTD is committed to provide one-, three-, or five-day per week transit service between Dulce and Chama, New Mexico; and

WHEREAS, upon selection to receive TRIBAL TRANSPORTATION PROGRAM FFY2016 funds, Jicarilla Apache Nation is committed to provide the required 10% local match; and

WHEREAS, the NCRTD, in looking to improve passenger experience and maximize ridership on current and future routes; and

WHEREAS, the NCRTD, as the regional transit provider, embraces its duty to educate and inform new and future passengers to the available transit options; and

WHEREAS, the NCRTD on behalf of its member Tribes, will apply for TRIBAL TRANSPORTATION PROGRAM FFY2016 discretionary funds; and

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Section 73-25-1 et seq.); and

WHEREAS, the NCRTD is a sub-division of the State of New Mexico; and
WHEREAS, the NCRTD was approved and certified by the New Mexico Department of Transportation on the 14th day of September 2004;

NOW, THEREFORE, BE IT RESOLVED by the NCRTD Board that the request for authorization and support of NCRTD Staff collaborating with Jicarilla Apache Nation Staff to request operational and capital funds to support new transit service between Dulce and Chama, New Mexico through a FFY2016 TRIBAL TRANSPORTATION PROGRAM discretionary grant application submittal.

PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 8th DAY OF APRIL, 2016.

____________________________________
Daniel Barrone, Chairman

Approved as to form:

____________________________________
Peter Dwyer, Counsel
Improving Flightcrew Awareness During Autopilot Operations. The policy statement advised the public that the FAA would be evaluating various items for improving the flightcrew’s awareness during autopilot operations when certifying automatic pilot installations. The FAA intended that the policy statement would serve as interim guidance until the issuance of AC 25.1329–1B.

The FAA issued AC 25.1329–1B, Approval of Flight Guidance Systems, on July 17, 2006, and more recently issued the updated AC 25.1329–1C on October 27, 2014. The AC incorporates the same guidance as the older policy statement. The FAA intended to cancel the policy when AC 25.1329–1B was released but overlooked it.

Cancellation of Policy Statement

As a result of the issuance of AC 25.1329–1B (now 25.1329–1C), Policy Statement Number ANM–99–01 is no longer in effect and is herewith cancelled.

Issued in Renton, Washington, on March 1, 2016.

Michael Kaszycki,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration


Enhancing Flightcrew Awareness During Autopilot Operation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of cancellation of policy statement.

SUMMARY: The Federal Aviation Administration (FAA) announces the cancellation of Policy Statement Number PS–ANM111–2001–99–01 (ANM–99–01). The policy statement is cancelled because it was superseded by an advisory circular (AC) and is no longer necessary.

DATES: This policy statement is cancelled on March 14, 2016.

FOR FURTHER INFORMATION CONTACT: Marie Hogestad, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airplane and Flight Crew Interface Branch, 1601 Lind Avenue SW., Renton, WA 98057–3556; telephone (425) 227–2674; fax (425) 227–1320; email: marie.hogestad@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 22, 2001, the Manager, Transport Airplane Directorate, Aircraft Certification Service, issued Policy Statement Number ANM–99–01,
can be located in the Catalog of Federal Domestic Assistance under 20.509.

The primary purpose of these competitively selected grants is to support planning, capital, and, in limited circumstances, operating assistance for tribal public transit services. Funds distributed to Indian tribes under the TTP should NOT replace or reduce funds that Indian tribes receive from States through FTA’s Formula Grants for Rural Areas Program. Specific project eligibility under this competitive allocation is described in Section C below. Priority consideration will be given to eligible projects that support one or more of the following elements of the Secretary of Transportation’s Ladders of Opportunity initiative:

- Enhancing access to work for tribal members lacking ready access to transportation, especially in low-income communities;
- Supporting economic opportunities by offering transit access to employment centers, educational and training opportunities, and other basic needs; and
- Supporting partnerships and coordinated planning that link tribal communities to other governmental, health, medical, education, social, human service, and transportation providers to improve coordinated planning and delivery of workforce development, training, and basic services that enhance employment outcomes.

B. Federal Award Information

The FAST makes approximately $5 million available for the Tribal Transit competitive allocation in FY 2016 to projects selected pursuant to the process described in the following sections.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants include federally recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the U.S. Department of Interior (DOI) Bureau of Indian Affairs (BIA). As evidence of Federal recognition, an Indian tribe may submit a copy of the most up-to-date Federal Register Notice published by BIA: Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs (81 FR 5019, January 29, 2016). To be an eligible recipient, an Indian tribe must have the requisite legal, financial and technical capabilities to receive and administer Federal funds under this program. Applicants must be registered in the System for Award Management (SAM) database and maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by FTA.

2. Eligible Projects

Eligible projects include public transportation planning, capital and operating projects, in limited circumstances. Public transportation includes regular, continuing shared-ride surface transportation services open to the public or open to a segment of the public defined by age, disability, or low income. FTA will award grants to eligible Indian tribes located in rural areas. Specific types of projects include: capital projects for start-ups, replacement or expansion needs; operating assistance for start-ups; and planning projects up to $25,000. Indian tribes applying for capital replacement or expansion needs must demonstrate a sustainable source of operating funds for existing or expanded services. In FY 2016, FTA will only consider operating assistance requests from tribes without existing transit service, or those tribes who received a TTP formula allocation of less than $20,000.

3. Cost Sharing or Matching

There is a 90 percent federal share for projects selected under the TTP competitive program, unless the Indian tribe can demonstrate a financial hardship in its application. FTA is interested in the Indian tribe’s financial commitment to the proposed project, thus the proposal should include a description of the Indian tribe’s financial commitment.

D. Application and Submission Information

1. Address to Request Application Package

A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from GRANTS.GOV) and (2) the Tribal Transit supplemental form found on the FTA Web site at http://www.fta.dot.gov/grants/15926_3553.html. The Tribal Transit supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO.

2. Content and Form of Application Submission

(i) Proposal Submission

A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from GRANTS.GOV) and (2) the Tribal Transit supplemental form. The applicant must place the supplemental form in the attachments section of the SF-424 Mandatory form. Applicants must use the supplemental form designated for TTP and attach the form to their submission in GRANTS.GOV to complete the application process. A proposal submission may contain additional supporting documentation as attachments.

Within 24–48 hours after submitting an electronic application, the applicant should receive three email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV; (2) confirmation of successful validation by GRANTS.GOV; and (3) confirmation of successful validation by FTA. If the applicant does not receive confirmations of successful validation and instead receives a notice of failed validation or incomplete materials, the applicant must address the reason for the failed validation or incomplete materials, as described in the notice, and resubmit the proposal before the submission deadline. If making a resubmission for any reason, the applicant must include all original attachments regardless of which attachments are updated and check the box on the supplemental form indicating this is a resubmission.

Important: FTA urges applicants to submit their project proposals at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site http://www.GRANTS.GOV. The deadline will not be extended due to scheduled maintenance or outages.

Applicants may submit one proposal for each project or one proposal containing multiple projects. Applicants submitting multiple projects in one proposal must be sure to clearly define each project by completing a supplemental form for each project. Additional supplemental forms must be added within the proposal by clicking the “add project” button in Section II of the supplemental form.

Information such as applicant name, Federal amount requested, description of areas served, and other information may be requested in varying degrees of detail on both the SF 424 form and supplemental form. Applicants must fill in all fields unless stated otherwise on
The forms. Applicants should use both the “Check Package for Errors” and the “Validate Form” validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent.

(ii). Application Content

The SF424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Name of federally recognized tribe and, if appropriate, the specific tribal agency submitting the application.

b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available. (Note: If selected, applicant will be required to provide DUNS number prior to grant award).

c. Contact information including: Contact name, title, address, fax and phone number, email address if available.

d. Description of public transportation services including areas currently served by the tribe, if any.

e. Name of person(s) authorized to apply on behalf of the tribe (attach a signed transmittal letter) must accompany the proposal.

f. Project Description. Indicate the category for which funding is requested; i.e., project type: capital, operating or planning, and then indicate the project purpose; i.e., start-up, expansion or replacement. Describe the proposed project and what it will accomplish (e.g., number and type of vehicles, routes, service area, schedules, type of services, fixed route or demand responsive, safety aspects), route miles (if fixed route), ridership numbers expected (actual if an existing system, estimated if a new system), major origins and destinations, population served, and whether the tribe provides the service directly, contracts for services, and note vehicle maintenance plans.

g. Project Timeline. Include significant milestones such as date of contract for purchase of vehicle(s), actual or expected delivery date of vehicles; facility project phases (e.g. NEPA compliance, design, construction); or dates for completion of planning studies. If applying for operational funding for new services, indicate the period of time funds are used to operate the system (e.g. one year). This section should also include any needed timelines for tribal council project approvals, if applicable.

h. Budget. Provide a detailed budget for each proposed purpose noting the federal amount requested and any additional funds that will be used. An Indian tribe may use up to fifteen percent of a grant award for capital projects for specific project-related planning and administration, and the indirect costs rate may not exceed ten percent (if necessary add as an attachment) of the total amount requested/awarded. Indian tribes should also provide their annual operating budget as an attachment or under the Financial Commitment and Operating Capacity of the supplemental form.

i. Technical, Legal, Financial Capacity. Indian tribes must be able to demonstrate adequate technical, legal and financial capacity to be considered for funding. Every proposal MUST describe this capacity to implement the proposed project.

1. Technical Capacity: Provide examples of the Indian tribe’s management of other Federal projects, including previously funded FTA projects and/or similar types of projects for which funding is being requested. Describe the resources the Indian tribe has to implement the proposed transit project.

2. Legal Capacity: Provide documentation or other evidence to show that the applicant is a federally recognized Indian tribe and has an authorized representative to execute legal agreements with FTA on behalf of the Indian tribe. If applying for capital or operating funds, identify whether the Indian tribe has appropriate Federal or State operating authority.

3. Financial Capacity: Provide documentation or other evidence to show that the Indian tribe has adequate financial systems in place to receive and manage a Federal grant. Describe the Indian tribe’s financial systems and controls. Describe other sources of funds the Indian tribe manages and describe the long-term financial capacity to maintain the proposed or existing transit services.

3. Unique Entity Identifier and System for Award Management (SAM)

Registration takes approximately 3–5 business days, please allow 4 weeks for completion of all steps. FTA recommends allowing ample time, up to several weeks, for completion of all steps.

STEP 1: Obtain DUNS Number

Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet Web site at http://fedgov.dnb.com/webform to obtain the number.

STEP 2: Register with SAM

Three to five business days or up to two weeks. If you already have a TIN, your SAM registration will take 3–5 business days to process. If you are applying for an EIN please allow up to 2 weeks. Ensure that your organization is registered with the System for Award Management (SAM) at System for Award Management (SAM). If your organization is not, an authorizing official of your organization must register.

STEP 3: Establish an Account in Grants.gov—Username & Password

Same day. Complete your AOR (Authorized Organization Representative) profile on Grants.gov and create your username and password. You will need to use your organization’s DUNS Number to complete this step. https://apply07.grants.gov/apply/OrcRegister.

STEP 4: Grants.gov—AOR Authorization

* Same day. The E-Business Point of Contact (E-Biz POC) at your organization must login to Grants.gov to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization. *Time depends on responsiveness of your E-Biz POC.

STEP 5: TRACK AOR STATUS

At any time, you can track your AOR status by logging in with your username and password. Login as an Applicant (enter your username & password you obtained in Step 3) using the following link: applicant_profile.jsp.

4. Submission Dates and Times

Project proposals must be submitted electronically through GRANTS.GOV by May 13, 2016. Mail and fax submissions will not be accepted.

5. Funding Restrictions

Funds must be used only for the specific purposes requested in the Indian tribe’s application. Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to FTA award.

6. Other Submission Requirements

FTA requires that all project proposals be submitted electronically through http://www.GRANTS.GOV by 11:59 p.m. EDT on May 13, 2016. Mail and fax submissions will not be accepted.
E. Application Review

1. Selection Criteria

The FTA will use the following primary selection criteria when evaluating competing capital and operating assistance projects eligible under this program:

i. Planning and Local/Regional Prioritization

In this section, the applicant should describe how the proposed project was developed and demonstrate that there is a sound basis for the project and that the applicant is ready to implement the project if funded. Information may vary depending upon how the planning process for the project was conducted and what is being requested. Planning and local/regional prioritization should consider and address the following areas:

a. Describe the planning document and/or the planning process conducted to identify the proposed project.

b. Provide a detailed project description including the proposed service, vehicle and facility needs, and other pertinent characteristics of the proposed or existing service implementation.

c. Identify existing transportation services in and near the proposed service area and document in detail, whether the proposed project will provide opportunities to coordinate service with existing transit services, including human service agencies, intercity bus services, or other public transit providers.

d. Discuss the level of support by the community and/or tribal government for the proposed project.

e. Describe how the mobility and client-access needs of tribal human service agencies were considered in the planning process.

f. Describe what opportunities for public participation were provided in the planning process and how the proposed transit service or existing service has been coordinated with transportation provided for the clients of human service agencies, with intercity bus transportation in the area, or with any other rural public transit providers.

g. Describe how the proposed service complements rather than duplicates any currently available services.

h. Describe the implementation schedule for the proposed project, including time period, staffing, and procurement.

i. Describe any other planning or coordination efforts not mentioned above.

ii. Project Readiness

In this section, the applicant should describe readiness to implement the project. This involves assessing whether:

a. Project is a Categorical Exclusion (CE) or the required environmental work has been initiated or completed for construction projects requiring an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under, among others, the National Environmental Policy Act of 1969, as amended.

b. Project implementation plans are complete, including initial design of facilities projects.

c. Project funds can be obligated and the project can be implemented quickly, if selected.

d. Applicant demonstrates the ability to carry out the proposed project successfully.

iii. Demonstration of Need

FTA will evaluate each project to determine the need for resources. In addition to the project-specific criteria, this will include evaluating the project’s impact on service delivery and whether the project represents a one-time or periodic need that cannot reasonably be funded from the FTA program formula allocations or State and/or local resources. In this section, the proposal should demonstrate the transit needs of the Indian tribe and discuss how the proposed transit improvements or the new service will address the identified transit needs. Proposals should include information such as destinations and services not currently accessible by transit, needs for access to jobs or health care, safety enhancements or special needs of elders, individuals with disabilities, behavioral health care needs of youth, income-based community needs, or other mobility needs. If an applicant received a planning grant in previous fiscal years, it should indicate the status of the planning study and how the proposed project relates to that study.

Capital expansion or replacement projects should also address the following in the proposal. If the proposal is for capital funding associated with an expansion or expanded service, the applicant should describe how current or growing demand for the service necessitates the expansion (and therefore, more capital) and/or the degree to which the project is addressing a current capacity constraint. Capital replacement projects should include information about the age, condition, and performance of the asset to be replaced by the proposed project and/or how the replacement may be necessary to maintain the transit system in a state of good repair.

iv. Demonstration of Benefits

In this section, proposals should identify expected or, in the case of existing service, achieved, project benefits. FTA is particularly interested in how these investments will improve the quality of life for the tribe and surrounding communities in which it is located. Applicants should describe how the transportation service or capital investment will provide greater access to employment opportunities, educational centers, healthcare, or other needs that profoundly impact the quality of life for the community, as described in the program purpose above. Possible examples include increased or sustained ridership and daily trips, improved service, elimination of gaps in service, improved operations and coordination, increased reliability, health care, education, and economic benefits to the community. Benefits can be demonstrated by identifying the population of tribal members and non-tribal members in the proposed project service area and estimating the number of daily one-way trips the proposed transit service will provide or the actual number of individual riders served. Applicants are encouraged to consider qualitative and quantitative benefits to the Indian tribe and to the surrounding communities that are meaningful to them.

Based on the information provided under the demonstration of benefits, proposals will be rated based on four factors:

a. Will the project improve transit efficiency or increase ridership?

b. Will the project improve or maintain mobility, or eliminate gaps in service for the Indian tribe?

c. Will the project improve or maintain access to important destinations and services?

d. Are there other qualitative benefits, such as greater access to jobs, education and health care?

v. Financial Commitment and Operating Capacity

In this section, the proposal should identify the source of local match (10 percent is required for all operating and capital projects), and any other funding sources used by the Indian tribe to support proposed transit services, including human service transportation funding, FHWA’s Tribal Transportation Program funding, or other FTA programs. If requesting that FTA waive the local match based on financial hardship, the applicant must submit
budgets and sources of other revenue to demonstrate hardship. FTA will review this information and notify tribes at the time of award if the waiver is approved. If applicable, the applicant also should describe how prior year TTP funds were spent to date to support the service. Additionally, Indian tribes applying for operating of new services should provide a sustainable funding plan that demonstrates how it intends to maintain operations.

The proposal should describe any other resources the Indian tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources, and describe to what extent the new project or funding for existing service leverages other funding. Based upon the information provided, the proposals will be rated on the extent to which the proposal demonstrates that:

a. TTP Funding does not replace existing funding;
b. The Indian tribe will provide non-financial support to the project;
c. The Indian tribe is able to demonstrate a sustainable funding plan; and
d. Project funds are used in coordination with other services for efficient utilization of funds.

vi. Evaluation Criteria for Planning Proposals

For planning grants, the proposal should describe, in no more than three pages, the need for and a general scope of the proposed study. The proposal should also address the following:

1. What is the tribes’ long-term commitment to transit?
2. How will the proposed study be implemented and/or further tribal transit.

2. Review and Selection Process

A technical evaluation committee will review proposals under the project evaluation criteria. Members of the technical evaluation committee and other involved FTA staff reserve the right to screen, rate the applications, and seek clarification about any statement in an application. After consideration of the findings of the technical evaluation committee, the FTA Acting Administrator will determine the final selection and amount of funding for each project.

Geographic diversity and the applicant’s receipt and management of other federal transit funds may be considered in FTA’s award decisions. FTA expects to announce the selected projects and notify successful applicants in the early summer of 2016.

F. Federal Award Administration

1. Federal Award Notice

Subsequent to an announcement by the FTA Administrator of the final project selections posted on the FTA Web site, FTA will publish a list of the selected projects, including Federal dollar amounts and recipients in the Federal Register. Project recipients should contact their FTA Regional Offices and tribal liaison for information about setting up grants in FTA’s Transit Award Management System (TrAMS).

2. Award Administration

Successful proposals will be awarded through TrAMS as Grant Agreements. The appropriate FTA Regional Office and tribal liaison will manage project agreements.

3. Administrative and National Policy Requirements

Except as otherwise provided in this NOFO, TTP grants are subject to the requirements of 49 U.S.C. 5311(j) as described in the latest FTA Circular 9040.1G for the Formula Grants for Rural Areas Program.

4. Reporting

The post award reporting requirements include submission of the Federal Financial Report (FFR) and Milestone Progress Report in TrAMS, and National Transit Database (NTD) reporting as appropriate (see FTA Circular 9040.1G).

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact Elan Flippin, Office of Program Management, (202) 366–3800, email: elan.flippin@dot.gov. A TDD is available at 1–800–877–8339 (TDD/FIRS). This program is not subject to Executive Order 12372.

H. Other Information

This program is not subject to Executive Order 12372.

“Intergovernmental Review of Federal Programs.” FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C–2. Due to funding limitations, applicants that are selected for funding may receive less than the amount requested.

Additionally, to assist tribes with understanding requirements under the TTP, FTA has conducted approximately nine Tribal Transit Technical Assistance Workshops, and expects to offer a workshop in FY2016. FTA also has expanded its technical assistance to tribes receiving funds under this program. In FY15, FTA implemented the Tribal Transit Technical Assistance Assessments initiative. Through these assessments, FTA collaborates with tribal transit leaders to review processes and identify areas in need of improvement and then assist with solutions to address these needs—all in a supportive and mutually beneficial and technical assistance manner. FTA completed fifteen assessments in FY15, and expects to do a similar number in FY16. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. These workshops and assessments received exemplary feedback from Tribal Transit Leaders, and provided FTA with invaluable opportunities to learn more about tribal transit leaders’ perspectives, and honor the sovereignty of tribal nations.

FTA will post information about upcoming workshops to its Web site and will disseminate information about the assessments through its Regional offices.

Contact information for FTA’s regional offices can be found on FTA’s Web site at www.fta.dot.gov. Applicants may also receive technical assistance by contacting their FTA regional tribal liaison. A list of Tribal Liaisons is available on FTA’s Web site at http://www.fta.dot.gov/grants/15926_3553.html. Contact information for FTA’s regional offices can be found on FTA’s Web site at www.fta.dot.gov.

Therese W. McMillan, Acting Administrator.

Appendix A

Registering in SAM and Grants.gov

Registration in Brief:
Registration takes approximately 3–5 business days, please allow 4 weeks for completion of all steps.
In order to apply for a grant, you and/or your organization must first complete the registration process in Grants.gov. The registration process for an Organization or an Individual can take between three to five business days or as long as four weeks if all steps are not completed in a timely manner. So please register in Grants.gov early.

The Grants.gov registration process ensures that applicants for Federal Funds have the basic prerequisites to apply for and to receive federal funds. Applicants for FTA competitive funds must:

• Have a valid DUNS number
• Have a current registration in SAM (formerly CCR)
• Register and apply in Grants.gov

The required registration steps are described in greater detail in Grants.gov Web site. The following is a link to a helpful checklist and explanations published by
Grants.gov to assist applicants: Organization Registration Checklist. If you have not recently applied for federal funds, we recommend that you initiate your search, registration, and application process with Grants.gov. Visiting the Grants.gov site will inform you of how to apply for grant opportunities, as well as assist you in linking to the other required registrations, i.e., Dun & Bradstreet to obtain a DUNS Number, and System for Award Management (SAM).

Summary of steps (these steps are available in Grants.gov during registration):

Step 1: Obtain DUNS Number

Same day. If requested by phone (1–866–705–5711) DUNS is provided immediately. If your organization does not have one, you will need to go to the Dun & Bradstreet Web site at http://fedgov.dnb.com/webform to obtain the number.

Step 2: Register With SAM

Three to five business days or up to two weeks. If you already have a TIN, your SAM registration will take 3–5 business days to process. If you are applying for an EIN please allow up to 2 weeks. Ensure that your organization is registered with the System for Award Management (SAM) at System for Award Management (SAM). If your organization is not, an authorizing official of your organization must register.

Step 3: Establish an Account in Grants.gov—Username & Password

Same day. Complete your AOR (Authorized Organization Representative) profile on Grants.gov and create your username and password. You will need to use your organization’s DUNS Number to complete this step. https://apply07.grants.gov/apply/OrcRegister.

Step 4: Grants.gov—AOR Authorization

*Same day. The E-Business Point of Contact (E-Biz POC) at your organization must login to Grants.gov to confirm you as an Authorized Organization Representative (AOR). Please note that there can be more than one AOR for your organization. In some cases the E-Biz POC is also the AOR for an organization. *Time depends on responsiveness of your E-Biz POC.

*Please Note: Grants.gov gives you the option of registering as an “individual” or an “organization.” If you register in Grants.gov as an as an “Individual,” your “Organization” will not be allowed to use the Grants.gov username and password. To apply for grants as an Organization you must register as an Organization and use that specific username and password issued during the “organization” registration process.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the names of an individual and entity whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The identification by the Acting Director of OFAC of the individual and entity identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on March 9, 2016.


SUPPLEMENTAL INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC’s Web site at http://www.treasury.gov/ofac or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking. The authority to identify, designate, and block the property and interests in property of persons under the Kingpin Act is delegated to the Director of OFAC pursuant to 31 CFR 590.803.

On March 9, 2016, the Acting Director of OFAC identified the following individual and entity whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act:

1. HASSAN, Ali Khatib Haji (a.k.a. ALEX, Maiko Joseph; a.k.a. HAJI, Ali Khatib; a.k.a. HAJI, Ali Khatib; a.k.a. HAJI, Ali Khatib; a.k.a. SHAKUR, Abdullah; a.k.a. “SHIKUBA”; a.k.a. “SHIKUBA”); DOB 05 Jun 1970; alt. DOB 01 Jan 1963; alt. DOB 08 Jun 1970; POB Zanzibar, Tanzania; alt. POB Dar es Salaam, Tanzania; nationality Tanzania; citizen Tanzania; Gender Male; Passport AB269600 (Tanzania); alt. Passport AB360821 (Tanzania); alt. Passport AB564505 (Tanzania); alt. Passport A0389018 (Tanzania); alt. Passport AB179561 (Tanzania); alt. Passport A0010167 (Tanzania) (individual) [SDNTK].

2. HASSAN DRUG TRAFFICKING ORGANIZATION (a.k.a. HASSAN DTO; a.k.a. SHIKUBA DTO), Tanzania; South Africa [SDNTK].

Dated: March 9, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–05633 Filed 3–11–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of One Entity Pursuant to Executive Order 13067

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the name of one entity whose property and interests in property are no longer...
Title: Discussion and Approval of Memorandum of Agreement (MOA) between NCRTD and member Pueblos for Federal Fiscal Year (FFY) 2015 & 2016 Tribal Transit Program (TTP) §5311(c) Funds

Prepared By: Troy Bingham, Finance Director

Summary: The NCRTD applied on behalf of its authorizing member Pueblos for FFY2015 & FFY2016 Tribal Transit Program funds to support the continuation of existing services. The TTP funding allocation is based off of the information provided within the NTD reports that the NCRTD completes on behalf of the Pueblos. For FFY2015 & FFY2016, TTP funding allocations for NCRTD Tribal Members (as submitted by NCRTD) were as follows:

<table>
<thead>
<tr>
<th>Member Pueblo</th>
<th>FFY2015</th>
<th>FFY2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pueblo of Nambe</td>
<td>10,360</td>
<td>3,897</td>
</tr>
<tr>
<td>Pueblo of Pojoaque</td>
<td>10,360</td>
<td>3,897</td>
</tr>
<tr>
<td>Pueblo de San Ildefonso</td>
<td>38,381</td>
<td>8,258</td>
</tr>
<tr>
<td>Pueblo of Santa Clara</td>
<td>97,960</td>
<td>103,220</td>
</tr>
<tr>
<td>Pueblo of Tesuque</td>
<td>24,415</td>
<td>9,228</td>
</tr>
<tr>
<td></td>
<td>181,476</td>
<td>128,500</td>
</tr>
</tbody>
</table>

Each Pueblo, as the direct recipient, has the choice as to how it would like to utilize said funds. Based on the decision made by each Pueblo, if it is determined that the Pueblo will suballocate the TTP award to the NCRTD, an MOA is required. The MOAs attached hereto reflects the agreement made between the two entities and has been approved by both NCRTD and Tribal legal. The MOA put forth has been reviewed by FTA for content. If any significant substantive changes to the MOA are needed, the changes will be brought to the Board for approval.

Background: Under MAP-21, $25 million was authorized to fund transit for federally recognized Indian Tribes in FY2015 & FY2016. The Tribal Transit Program supports capital projects, operating costs and planning activities under the Formula Grants for Rural Areas Program, also known as §5311(c).
At the authorization of the member Pueblos of Santa Clara, Tesuque, San Ildefonso, Pojoaque and Nambé, the NCRTD completed the NTD RU-22 Tribal report in 2014 and 2015. The information supplied therein is used by FTA to allocate its Tribal Transit Program funding.

**Recommended Action:** It is recommended that the Board approve the MOA as well as any future modifications that are not of a substantive nature as determined by the District’s Legal Counsel and authorize the Chair to sign the same. Staff recommends Board approval of this Agreement as it is necessary to satisfy Federal requirements related to the 5311(c) funding and it suballocation from NCRTD member Pueblos to NCRTD.

**Options/Alternatives:** To not approve the Staff recommended MOA would result in the funds lapsing. GRT or another funding source would have to be identified and utilized to support the continuation of existing transit services.

**Fiscal Impact:** To not approve this MOA will result in the loss of Tribal Transit Program funds to support the continuation of route operations.

**Attachments:**
- FY2015 MOA between Santa Ildefonso Pueblo and NCRTD is forthcoming
- FY2016 MOA between Santa Ildefonso Pueblo and NCRTD is forthcoming
- SIGNED - FY2015 MOA between Pojoaque Pueblo and NCRTD
- SIGNED - FY2016 MOA between Pojoaque Pueblo and NCRTD
- SIGNED - FY2015 MOA between Nambé Pueblo and NCRTD
- SIGNED - FY2016 MOA between Nambé Pueblo and NCRTD
- SIGNED - FY2015 MOA between Santa Clara and NCRTD
- SIGNED - FY2016 MOA between Santa Clara and NCRTD
- FY2015 MOA between Tesuque and NCRTD is forthcoming
- FY2016 MOA between Tesuque and NCRTD is forthcoming
FEDERAL FISCAL YEAR 2015
MEMORANDUM OF AGREEMENT
BETWEEN
THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT
AND
THE PUEBLO OF SAN ILDEFONSO

THIS AGREEMENT made and entered into this 4th day of March, 2015, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the San Ildefonso Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the Pueblo receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT. This section is subject to the appropriation of federal funds under 49 USC § 5311 (c).

SECTION 3.  COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2015 Section 5311(c) Award Amount
Formula: $38,381.00
Discretionary: $0

SECTION 4.  NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5.  PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6.  BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received.

SECTION 7.  DRUG AND ALCOHOL TESTING
The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C. § 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to: audit fees, court costs, attorneys fees based on reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

SECTION 12. RETENTION OF RECORDS
The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.

SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.
SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The parties agree to abide by all Federal and State laws and rules and regulations of the State of New Mexico, pertaining to equal employment opportunity as it may pertain to the enforcement of this AGREEMENT. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

SECTION 20. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

SECTION 21. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled “Equal Employment Opportunity“, as amended by Executive Order: 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference to the extent those provisions pertain to the work under this AGREEMENT.

SECTION 22. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions reference to the extent those provisions pertain to the work under this AGREEMENT. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:

http://ftateamweb.fta.dot.gov/static/Agreements/21-MASTER.pdf

SECTION 23. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives to the extent those provisions pertain to the work under this AGREEMENT.

SECTION 24. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

SECTION 25. APPROPRIATIONS

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The PUEBLO’s decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 26. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 27. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.

C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 28. SEVERABILITY

In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

SECTION 29. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2016, or until the total amount of Federal funding of this AGREEMENT is expended, whichever occurs first.

SECTION 30. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD
shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 31. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator designated by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall either agree to the designated arbitrator or propose the names of one or more alternative arbitrators. Any arbitrator designated or selected under this AGREEMENT shall be a New Mexico attorney in good standing with knowledge of Tribal law.

3. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.

4. The arbitration hearing shall be held at such time and place as designated by; the arbitrators on at least 20 days written notice to the parties.

5. An award rendered by an arbitrator appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

6. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association.

C. Arbitration as Bar to Suit:

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.
2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators' Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

SECTION 32. SCHOOL BUS REQUIREMENTS

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.
IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District  
By: Dan Barrone, Chairman  
Date: 

San Ildefonso Pueblo  
By: Title: Governor James R. Mountain  
Date: 

Approved as to form:  

Peter A. Dwyer  
NCRTD Counsel  

Approved as to form:  

San Ildefonso Pueblo Counsel
FEDERAL FISCAL YEAR 2016

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

AND

THE PUEBLO OF SAN ILDEFONSO

THIS AGREEMENT made and entered into this 4th day of March, 2015, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the San Ildefonso Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefor and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT. This section is subject to the appropriation of federal funds under 49 USC § 5311 (c).

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expensed and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2016 Section 5311(c) Award Amount
Formula: $8,258.00
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6. BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received.

SECTION 7. DRUG AND ALCOHOL TESTING
The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C.§ 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to: audit fees, court costs, attorneys fees based on reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

SECTION 12. RETENTION OF RECORDS
The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.

SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.
SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The parties agree to abide by all Federal and State laws and rules and regulations of the State of New Mexico, pertaining to equal employment opportunity as it may pertain to the enforcement of this AGREEMENT. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

SECTION 20. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

SECTION 21. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled “Equal Employment Opportunity”, as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference to the extent those provisions pertain to the work under this AGREEMENT.

SECTION 22. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions reference to the extent those provisions pertain to the work under this AGREEMENT. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:

http://ftateamweb.fta.dot.gov/static/Agreements/21-MASTER.pdf

SECTION 23. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives to the extent those provisions pertain to the work under this AGREEMENT.

SECTION 24. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

SECTION 25. APPROPRIATIONS

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The PUEBLO’s decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 26. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 27. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.

C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 28. SEVERABILITY

In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

SECTION 29. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2017, or until the total amount of Federal funding of this AGREEMENT is expended, whichever occurs first.

SECTION 30. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD
shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 31. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator designated by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall either agree to the designated arbitrator or propose the names of one or more alternative arbitrators. Any arbitrator designated or selected under this AGREEMENT shall be a New Mexico attorney in good standing with knowledge of Tribal law.

3. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.

4. The arbitration hearing shall be held at such time and place as designated by; the arbitrators on at least 20 days written notice to the parties.

5. An award rendered by an arbitrator appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

6. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association.

C. Arbitration as Bar to Suit:

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.
2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators' Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

SECTION 32. SCHOOL BUS REQUIREMENTS

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.
IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District
By:

Dan Barrone, Chairman
Date:

San Ildefonso Pueblo
By:

Title: Governor James R. Mountain
Date:

Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

San Ildefonso Pueblo Counsel
FEDERAL FISCAL YEAR 2015

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

AND

THE PUEBLO OF POJOAQUE

THIS AGREEMENT made and entered into this 8th day of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Pojoaque Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the grants under 49 U.S.C. Section 5311 (c) are an important component of NCRTD funding for tribal transit services presently delivered by the NCRTD; and

WHEREAS, the grants under 49 U.S.C. Section 5311 (c) constitute only a fraction of the costs of NCRTD services to the PUEBLO; and

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.
SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those services on tribal lands described in the NCRTD's service plan as amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD's implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2015 Section 5311(c) Award Amount
Formula: $10,360
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT and in accordance with the procedures set forth by the NCRTD and FTA.

SECTION 6. BILLING

Under "49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. The PUEBLO shall review and approve all submitted billings. The PUEBLO shall notify NCRTD within 15 days if the billings are defective in any manner and provide NCRTD with 10
days to cure the defect and resubmit the billing for reconsideration. Once approved by the PUEBLO, the PUEBLO shall pay the amounts billed under this AGREEMENT - in no event more than 60 days following approval. All amounts approved and due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received. Failure to make timely payment may result in a proportionate reduction in services by the NCRTD in the NCRTD’s sole discretion. Payments due by the Pueblo of Pojoaque under this MOA shall come solely from funds provided by the Federal Department of Transportation. The Pueblo of Pojoaque authorizes the NCRTD, as its fiscal agent, to obtain such federal funds on behalf of the Pueblo from the Federal Department of Transportation. NCRTD shall provide documentation to the Pueblo to the satisfaction of the Pueblo accounting department and audit requirements.

SECTION 7. DRUG AND ALCOHOL TESTING

The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C.§ 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant, at all times, the PUEBLO and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or
his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If audit exceptions are discovered relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with curing the audit exceptions or performing an audit or follow-up audit.

SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project. NCRTD shall make all such materials available to the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged negligent or tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.
SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal and Pueblo laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and Pueblo regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein. However, if the PUEBLO, as a Native American Indian tribe, is exempted from the requirements of a Federal law it shall not be obligated to comply with such law.

SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The NCRTD agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, NCRTD agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If NCRTD is found to not be in compliance with these requirements during the term of this AGREEMENT, it agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy.

SECTION 20. JURISDICTION

This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the Pueblo of Pojoaque. NCRTD expressly agrees to the exclusive subject matter, personal jurisdiction and venue of the Pueblo of Pojoaque Tribal Court.

SECTION 21. SCOPE OF AGREEMENT
This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

SECTION 22. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

NCRTD shall comply with all federal, State and Pueblo laws and ordinances applicable to the work called for herein. NCRTD will not be required to comply with Sections S-3 or S-4 of the Pueblo of Pojoaque Law and Order Code. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to NCRTD and incorporated herein by reference.

SECTION 23. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


SECTION 24. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives.

SECTION 25. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.
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The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The NCRTD's decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 27. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.
C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 29. SEVERABILITY

In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

SECTION 30. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2016, or until the total amount of Federal funding of this AGREEMENT is expended.

SECTION 31. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to the requirements of Section 6. of this AGREEMENT. In the event of termination for cause, the NCRTD shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 32. ARBITRATION PROVISIONS:

A. Matters to be submitted to arbitration: Any and all disputes shall be resolved by mandatory and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, but the arbitrator(s) shall have no power or authority to award consequential, incidental, special, exemplary or punitive damages. Any arbitration shall be conducted on-site at the Pueblo of Pojoaque. This Agreement shall be construed in accordance with and governed by the Pueblo of Pojoaque Law and Order Code, as amended.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named from the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to
appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. At least one arbitrator shall be a licensed attorney with substantive knowledge in the field of Indian law and licensed to practice law in New Mexico.

4. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.

5. Once all arbitrators have been appointed, the arbitration hearing shall be held within the next 30 days.

6. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

7. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association excluding Rule 52(c).

C. **Arbitration as Bar to Suit:**

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitral as set forth in this AGREEMENT, except as specified in 32. (A).

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. **Lack of Arbitrators’ Authority to Modify Agreement:** Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. **Enforcement:** Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.
F. Non-applicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

G. Sovereign Immunity: Nothing in this Agreement, shall be deemed to waive, limit, or modify the Pueblo of Pojoaque’s sovereign immunity in any way.

SECTION 33. SCHOOL BUS REQUIREMENTS

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District
By: 

Dan Barrone, Chairman

Date:

Pojoaque Pueblo
By: 

Title: Governor Joseph Tafoya

Date: 3/11/16

Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

Pojoaque Pueblo Counsel
FEDERAL FISCAL YEAR 2016
MEMORANDUM OF AGREEMENT
BETWEEN
THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT
AND
THE PUEBLO OF POJOAQUE

THIS AGREEMENT made and entered into this 8th day of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Pojoaque Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the grants under 49 U.S.C. Section 5311 (c) are an important component of NCRTD funding for tribal transit services presently delivered by the NCRTD; and

WHEREAS, the grants under 49 U.S.C. Section 5311 (c) constitute only a fraction of the costs of NCRTD services to the PUEBLO; and

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.
SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those services on tribal lands described in the NCRTD’s service plan as amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2016 Section 5311(c) Award Amount
Formula: $3,897
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT and in accordance with the procedures set forth by the NCRTD and FTA.

SECTION 6. BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. The PUEBLO shall review and approve all submitted billings. The PUEBLO shall notify NCRTD within 15 days if the billings are defective in any manner and provide NCRTD with 10
days to cure the defect and resubmit the billing for reconsideration. Once approved by the PUEBLO, the PUEBLO shall pay the amounts billed under this AGREEMENT - in no event more than 60 days following approval. All amounts approved and due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received. Failure to make timely payment may result in a proportionate reduction in services by the NCRTD in the NCRTD’s sole discretion. Payments due by the Pueblo of Pojoaque under this MOA shall come solely from funds provided by the Federal Department of Transportation. The Pueblo of Pojoaque authorizes the NCRTD, as its fiscal agent, to obtain such federal funds on behalf of the Pueblo from the Federal Department of Transportation. NCRTD shall provide documentation to the Pueblo to the satisfaction of the Pueblo accounting department and audit requirements.

SECTION 7. DRUG AND ALCOHOL TESTING

The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C. § 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant, at all times, the PUEBLO and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or
his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If audit exceptions are discovered relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with curing the audit exceptions or performing an audit or follow-up audit.

SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project. NCRTD shall make all such materials available to the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereeto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged negligent or tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.
SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal and Pueblo laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and Pueblo regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein. However, if the PUEBLO, as a Native American Indian tribe, is exempted from the requirements of a Federal law it shall not be obligated to comply with such law.

SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The NCRTD agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, NCRTD agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If NCRTD is found to not be in compliance with these requirements during the term of this AGREEMENT, it agrees to take appropriate steps to correct these deficiencies.

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This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the Pueblo of Pojoaque. NCRTD expressly agrees to the exclusive subject matter, personal jurisdiction and venue of the Pueblo of Pojoaque Tribal Court.

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This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

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For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


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B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.
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2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named from the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to
appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. At least one arbitrator shall be a licensed attorney with substantive knowledge in the field of Indian law and licensed to practice law in New Mexico.

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6. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

7. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association excluding Rule 52(c).

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1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitral as set forth in this AGREEMENT, except as specified in 32. (A).

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. **Lack of Arbitrators' Authority to Modify Agreement:** Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. **Enforcement:** Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.
F. **Non-applicability of Uniform Arbitration Act:** To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

G. **Sovereign Immunity:** Nothing in this Agreement, shall be deemed to waive, limit, or modify the Pueblo of Pojoaque’s sovereign immunity in any way.

SECTION 33. **SCHOOL BUS REQUIREMENTS**

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District
By:

Dan Barrone, Chairman
Date:

Pojoaque Pueblo
By:

Title: Governor
Joseph Talacky
Date: 3/11/16

Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

Carmen Frias
Pojoaque Pueblo Counsel
FEDERAL FISCAL YEAR 2015

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

AND

THE PUEBLO OF NAMBE

THIS AGREEMENT made and entered into this 4th day of, March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Nambé Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2015 Section 5311(c) Award Amount
Formula: $10,360
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6. BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received. Payments due by the Pueblo of Nambé under this MOA shall come solely from funds provided by the Federal Department of Transportation. The Pueblo of Nambé authorizes the NCRTD, as its fiscal agent, to obtain such federal funds on behalf of the Pueblo from the Federal Department of
Transportation. NCRTD shall provide documentation to the Pueblo to the satisfaction of the Pueblo accounting department and audit requirements.

SECTION 7. DRUG AND ALCOHOL TESTING

The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C. § 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

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If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to: audit fees, court costs, attorneys fees based on reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party. The Pueblo does not waive its sovereign immunity for tort claims pursuant to this Section 14.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.
Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.

SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The NCRTD agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

SECTION 20. JURISDICTION

This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the State of New Mexico.

SECTION 21. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.
SECTION 22. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled “Equal Employment Opportunity“, as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference. The Pueblo is not subject to the requirements of Title VII of the Civil Rights Act of 1964 and therefore not applicable to the Pueblo.

SECTION 23. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


SECTION 24. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives.

SECTION 25. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

SECTION 26. APPROPRIATIONS

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If
sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The NCRTD's decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 27. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.

C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 29. SEVERABILITY
In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

SECTION 30. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2016, or until the total amount of Federal funding of this AGREEMENT is expended, whichever is later.

SECTION 31. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 32. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named in the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. At least one arbitrator shall be a licensed attorney with substantive knowledge in the field of Indian law and licensed to practice law in New Mexico.

4. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.
5. The arbitration hearing shall be held at the Pueblo on at least 20 days written notice to the parties.

6. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

7. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association excluding Rule 52(c).

C. Arbitration as Bar to Suit:

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators’ Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

G. Sovereign Immunity: By entering this Agreement, the Pueblo does not waive, limit, or modify its sovereign immunity from suit.

SECTION 33. SCHOOL BUS REQUIREMENTS
Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District
By: 
Dan Barrone, Chairman
Date: ____________________________

Nambé Pueblo
By: 
Title: Governor Phillip A. Pérez
Date: 3/14/2016

Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

Nambé Pueblo Counsel
FEDERAL FISCAL YEAR 2016

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

AND

THE PUEBLO OF NAMBE

THIS AGREEMENT made and entered into this 4th day of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Nambé Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

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NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

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FFY2015 Section 5311(c) Award Amount
Formula: $3,897
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

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The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

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Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received. Payments due by the Pueblo of Nambé under this MOA shall come solely from funds provided by the Federal Department of Transportation. The Pueblo of Nambé authorizes the NCRTD, as its fiscal agent, to obtain such federal funds on behalf of the Pueblo from the Federal Department of
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No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party. The Pueblo does not waive its sovereign immunity for tort claims pursuant to this Section 14.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.
Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.

SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The NCRTD agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

SECTION 20. JURISDICTION

This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the State of New Mexico.

SECTION 21. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.
SECTION 22. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference. The Pueblo is not subject to the requirements of Title VII of the Civil Rights Act of 1964 and therefore not applicable to the Pueblo.

SECTION 23. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


SECTION 24. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives.

SECTION 25. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

SECTION 26. APPROPRIATIONS

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If
sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The NCRTD's decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 27. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.

C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 29. SEVERABILITY
In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this AGREEMENT shall remain in full force and effect.

SECTION 30. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2017, or until the total amount of Federal funding of this AGREEMENT is expended, whichever is later.

SECTION 31. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 32. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named in the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. At least one arbitrator shall be a licensed attorney with substantive knowledge in the field of Indian law and licensed to practice law in New Mexico.

4. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.
5. The arbitration hearing shall be held at the Pueblo on at least 20 days written notice to the parties.

6. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

7. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association excluding Rule 52(c).

C. Arbitration as Bar to Suit:

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators’ Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

G. Sovereign Immunity: By entering this Agreement, the Pueblo does not waive, limit, or modify its sovereign immunity from suit.

SECTION 33. SCHOOL BUS REQUIREMENTS
Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District 
By: 

Dan Barrone, Chairman

Date: 

Nambé Pueblo
By: 

Title: Governor Phillip A. Perez

Date: 3/14/2016

Approved as to form:

Peter A. Dwyer 
NCRTD Counsel

Approved as to form:

Nambé Pueblo Counsel
FEDERAL FISCAL YEAR 2015

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

AND

THE PUEBLO OF SANTA CLARA

THIS AGREEMENT made and entered into this 17th of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as "NCRTD"), and the Santa Clara Pueblo (hereinafter referred to as the "PUEBLO").

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a "Recipient" within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a "Sub-recipient" within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (c). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2015 Section 5311(c) Award Amount
Formula: $97,960 (for continuation of existing services)

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6. BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received.

SECTION 7. DRUG AND ALCOHOL TESTING
The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C.§ 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to:
audit fees, court costs, attorneys fees based on reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.
SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The parties agree to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

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The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

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This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the State of New Mexico.

SECTION 21. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

SECTION 22. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights
Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference.

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The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


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This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

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B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

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B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.

C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

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In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

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This AGREEMENT shall be in effect until September 30, 2016, or until the total amount of Federal funding of this AGREEMENT is expended, whichever occurs first.
SECTION 31. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 32. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named in the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.

4. The arbitration hearing shall be held at such time and place as designated by; the arbitrators on at least 20 days written notice to the parties.

5. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

6. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association.
C. Arbitration as Bar to Suit:

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators' Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

SECTION 33. SCHOOL BUS REQUIREMENTS

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District
By: 
Dan Barrone, Chairman

Santa Clara Pueblo
By: 
Title: J. Michael Chavarria Governor
Date: ________________ Date: 03-16-2016

Approved as to form:

__________________________
Peter A. Dwyer
NCRTD Counsel

Approved as to form:

__________________________
Santa Clara Pueblo Counsel
FEDERAL FISCAL YEAR 2016
MEMORANDUM OF AGREEMENT
BETWEEN
THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT
AND
THE SANTA CLARA PUEBLO

THIS AGREEMENT made and entered into this 4th day of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Santa Clara Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2016 Section 5311(c) Award Amount
Formula: $103,220
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6. BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received.

SECTION 7. DRUG AND ALCOHOL TESTING
The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C. § 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to:
audit fees, court costs, attorneys fees based on reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the $5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.
SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The parties agree to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

SECTION 20. JURISDICTION

This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the State of New Mexico.

SECTION 21. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

SECTION 22. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights
Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference.

SECTION 23. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


SECTION 24. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives.

SECTION 25. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

SECTION 26. APPROPRIATIONS

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The NCRTD's decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 27. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying
contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

B. The parties also acknowledge that if they make, or cause to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. §5307, the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n)(1) on the SUBGRANTEE, to the extent the Federal Government deems appropriate.

C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 29. SEVERABILITY

In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

SECTION 30. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2017, or until the total amount of Federal funding of this AGREEMENT is expended.

SECTION 31. ALLOWABLE COSTS IF TERMINATED
In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 32. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named in the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators’ fees and other expenses shall be borne equally by both parties.

4. The arbitration hearing shall be held at such time and place as designated by; the arbitrators on at least 20 days written notice to the parties.

5. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

6. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association.

C. Arbitration as Bar to Suit:
1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators’ Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

SECTION 33. SCHOOL BUS REQUIREMENTS

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District
By: Dan Barrone, Chairman

Santa Clara Pueblo
By: Title: Governor J. Michael Chavarria

Date: 2/1/2016
Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

Santa Clara Pueblo Counsel
FEDERAL FISCAL YEAR 2015
MEMORANDUM OF AGREEMENT
BETWEEN
THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT
AND
THE TESUQUE PUEBLO

THIS AGREEMENT made and entered into this 4th day of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Tesuque Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2015 Section 5311(c) Award Amount
Formula: $24,415
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6. BILLING

Under “49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received.

SECTION 7. DRUG AND ALCOHOL TESTING
The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C.§ 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

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If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to:
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SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.
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The parties agree to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

SECTION 19. NON-DISCRIMINATION

The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

SECTION 20. JURISDICTION

This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the State of New Mexico.

SECTION 21. SCOPE OF AGREEMENT

This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof; and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

SECTION 22. CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE

The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights
Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled “Equal Employment Opportunity“, as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference.

SECTION 23. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions include, in part, any Standard Terms and Conditions required by the Federal Department of Transportation (DOT), whether or not expressly set forth in the preceding AGREEMENT provisions. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this AGREEMENT. The parties shall comply with FTA mandated terms and conditions. The parties shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause the party to be in violation of FTA terms and conditions.

For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


SECTION 24. FEDERAL CHANGES

The parties shall at all times comply with all applicable FTA regulations, policies, procedures and directives.

SECTION 25. THIRD-PARTY BENEFICIARY CLAUSE

This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

SECTION 26. APPROPRIATIONS

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States for performance of this AGREEMENT. If sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the NCRTD to the SUBGRANTEE. The NCRTD’s decision as to whether sufficient appropriations are available shall be accepted by the SUBGRANTEE and shall be final.

SECTION 27. NO GOVERNMENT OBLIGATION TO THIRD PARTIES
A. The NCRTD and the PUEBLO acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the NCRTD, PUEBLO, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. The parties agree to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

SECTION 28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. The parties acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this AGREEMENT. Upon execution of the underlying contract, the parties each certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the SUBGRANTEE further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the SUBGRANTEE to the extent the Federal Government deems appropriate.

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C. The parties agree to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agrees that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

SECTION 29. SEVERABILITY

In the event any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable, the reminder of this AGREEMENT shall remain in full force and effect.

SECTION 30. TERM OF AGREEMENT

This AGREEMENT shall be in effect until September 30, 2016, or until the total amount of Federal funding of this AGREEMENT is expended.
SECTION 31. ALLOWABLE COSTS IF TERMINATED

In the event this AGREEMENT is terminated as herein provided, the NCRTD shall be paid for all the allowable costs incurred prior to the date of termination, subject to audit verification by the PUEBLO or its duly authorized representative. In the event of termination for cause, the NCRTD shall not be paid for any costs incurred that are inconsistent with, or contrary to, the terms and conditions of this AGREEMENT.

SECTION 32. ARBITRATION PROVISIONS:

A. Matters to be Submitted to Arbitration: All disputes and controversies of every kind and nature between the parties to this AGREEMENT as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination of this AGREEMENT shall be submitted to arbitration pursuant to the procedure set forth herein.

B. Procedure:

1. Any party may demand such arbitration in writing, which demand shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

2. Within 20 days after such demand, the other party(s) shall name their arbitrator, or in default of such naming, such arbitrator shall be named in the American Arbitration Association, and the two arbitrators so selected shall name a third arbitrator within 20 days or, in lieu of such agreement on a third arbitrator by the two arbitrators so appointed, a third arbitrator shall be appointed by the Federal District Court for the District of New Mexico. In the event said Court fails to appoint a third arbitrator within 30 days of the request therefore, the appointment shall be made by the American Arbitration Association.

3. The arbitration costs and expenses of each party shall be borne by that party and all arbitrators' fees and other expenses shall be borne equally by both parties.

4. The arbitration hearing shall be held at such time and place as designated by; the arbitrators on at least 20 days written notice to the parties.

5. An award rendered by a majority of the arbitrators appointed pursuant to this agreement shall be final and binding on all parties to the proceeding, and the parties hereto agree to be bound by such award.

6. As to any procedures regarding the conduct of the arbitration that are not specified either in the agreement or in another written agreement signed in advance of the hearing, the parties shall follow the Commercial Arbitration rules of the American Arbitration Association.
C. Arbitration as Bar to Suit:

1. The parties stipulate that the arbitration provisions of the AGREEMENT shall be a complete defense to any suit, action, or proceeding instituted in any federal, State, or tribal court or before an administrative tribunal with respect to any controversy or dispute arising during the period of this AGREEMENT and which is arbitrable as set forth in this AGREEMENT.

2. The arbitration provisions of this agreement shall, with respect to such controversy or dispute, survive the termination or expiration of this AGREEMENT.

D. Lack of Arbitrators' Authority to Modify Agreement: Nothing contained in this AGREEMENT shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this AGREEMENT.

E. Enforcement: Failure by either party to arbitrate any dispute pursuant to the procedure set forth herein when a demand to do so has been made by the other party or failure by either party to comply with the arbitration award shall amount to a material breach of this AGREEMENT and shall entitle the party who demanded arbitration to cease performance of any obligation set forth in the AGREEMENT at the sole discretion of that party.

F. Nonapplicability of Uniform Arbitration Act: To the extent allowed by law, this AGREEMENT is not subject to enforcement under the Uniform Arbitration Act (N.M.S.A. 1978, 44-7A-1 through 44-7A-32).

SECTION 33. SCHOOL BUS REQUIREMENTS

Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, Recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

North Central Regional Transit District    Tesuque Pueblo
By:                                      By:

Dan Barrone, Chairman                    Title: Governor Frederick Vigil

   9
Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

Tesorque Pueblo Counsel
FEDERAL FISCAL YEAR 2016

MEMORANDUM OF AGREEMENT

BETWEEN

THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT

AND

THE TESUQUE PUEBLO

THIS AGREEMENT made and entered into this 4th day of March, 2016, by and between the North Central Regional Transit District (hereinafter referred to as “NCRTD”), and the Tesuque Pueblo (hereinafter referred to as the “PUEBLO”).

WHEREAS, 49 U.S.C. Section 5311(c) authorizes Federal assistance for the specific purpose of assisting tribes in providing transportation services; and,

WHEREAS, the NCRTD desires to assist its members in participating with the 49 U.S.C. § 5311 program; and,

WHEREAS, the PUEBLO receives these funds from the Federal Government as a “Recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO has expressed a desire to have the NCRTD provide the transit services and perform the reporting requirements of 49 U.S.C. § 5311 (b) (4) for administration of the program as a “Sub-recipient” within the meaning of 49 U.S.C. § 5311 (a); and,

WHEREAS, the PUEBLO and the NCRTD wish to enter into this Memorandum of Agreement (MOA) for the purpose of documenting their manner of implementing the program under 49 U.S.C. § 5311(c) and seeking federal reimbursements;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants, promises, agreements and representations herein, the parties agree as follows:

SECTION 1. PURPOSE OF AGREEMENT

The purpose of this AGREEMENT is to provide for the use of federal §5311 funds by the Recipient PUEBLO and the accounting therefore and services by the Sub-recipient NCRTD.

SECTION 2. SCOPE OF THE AGREEMENT

NCRTD shall provide the transit services and account for the funds received from the PUEBLO in accordance with the terms and conditions of this AGREEMENT. Transit services provided by the NCRTD shall be those service on tribal lands described in the NCRTD’s service plan as
amended from time to time. Nothing herein shall be deemed to prohibit the parties from utilizing §5311 funds for any legally permissible purpose including NCRTD operations designated as appropriate for said funding. Nothing herein shall require or alter the NCRTD’s implementation of routes, schedules or programs that would violate the laws of the United States, the State of New Mexico or the PUEBLO. Nothing herein shall require the NCRTD to amend or alter its existing service plan or services other than as expressly agreed to by the parties in this AGREEMENT.

SECTION 3. COST OF SERVICES

The NCRTD and PUEBLO agree that the NCRTD shall provide transit services consistent with the scope and purposes of federal law regarding the §5311 grant from the United States. The obligations of the NCRTD shall be to provide the services in a lawful manner consistent with all grant requirements, to account for money expended and to ensure that use for administration, technical assistance and planning does not exceed established thresholds under 49 U.S.C. § 5311 (e). The NCRTD and PUEBLO, agree that the NCRTD’s responsibility to provide services under this AGREEMENT shall be limited to the amounts appropriated and allocated to the PUEBLO under §5311.

FFY2016 Section 5311(c) Award Amount
Formula: $9,228
Discretionary: $0

SECTION 4. NCRTD FUNDS NOT TO BE OBLIGATED

Nothing herein shall be construed as obligating NCRTD funds for payment of any debt or liability of any nature arising hereunder. The parties expressly recognize that all payments are to be made by the NCRTD solely from Federal funds made available to the NCRTD for said purpose(s).

SECTION 5. PROCUREMENT REQUIREMENTS

The NCRTD shall make any purchases financed in whole or in part pursuant to this AGREEMENT in accordance with the procedures set forth by the NCRTD and FTA, applicable New Mexico State law.

SECTION 6. BILLING

Under "49 U.S.C. § 5311 (a) the NCRTD is a “Sub-recipient” of federal funds granted to the PUEBLO. In order to convey the funds from the PUEBLO to the NCRTD, the NCRTD shall bill the PUEBLO for services under this AGREEMENT on an annual basis for the total amount awarded. PUEBLO shall pay all amounts billed under this AGREEMENT promptly upon receipt of the bill from the NCRTD but in no event more than 60 days following the date printed on the NCRTD bill. Notwithstanding the foregoing all amounts due under this agreement shall be paid in full to the NCRTD by PUEBLO prior to the end of the federal fiscal year they are received.

SECTION 7. DRUG AND ALCOHOL TESTING
The NCRTD shall ensure that, if vehicles utilized in the 49 U.S.C. § 5311 program require drivers to have a Commercial Drivers License (CDL), it is in compliance with the Federal Highway Administration Drug and Alcohol rules and regulations set forth in the Omnibus Transportation Testing Act of 1991.

SECTION 8. REPORTING REQUIREMENTS

The NCRTD shall keep satisfactory records with regard to the use of the Federal funds granted to the PUEBLO and shall submit such information as is required by law in order to assure compliance with this AGREEMENT.

SECTION 9. TERMINATION FOR CAUSE

The Parties, have the option to terminate this AGREEMENT in whole or in part if either Party fails to comply with any provisions of this AGREEMENT including but not limited to the timely reimbursement to the NCRTD of funds. Termination shall be effected by serving a notice of termination on the non-compliant Party setting forth the manner in which the non-compliant Party is in default. By such termination neither Party may nullify obligations already incurred for performance or failure to perform prior to termination of this AGREEMENT.

The Parties, each in its sole discretion may, in the case of a termination for breach or default, allow the non-compliant Party a reasonable opportunity to correct the breach. If within ten (10) days after receipt of a written notice of termination, the non-compliant Party has not corrected the breach or, in the case of a breach which cannot be corrected in ten (10) days, the non-compliant Party has not begun and proceeded in good faith to correct the breach, the compliant Party may declare the non-compliant Party in default and terminate the AGREEMENT effective 30 days after original notification. The Parties shall retain any and all other remedies available to it under law.

SECTION 10. AUDIT

The NCRTD shall grant the PUEBLO, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the NCRTD or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

The PUEBLO shall grant the NCRTD, the New Mexico Department of Transportation and the FTA or any of their duly authorized representatives the right of access to any books, documents, papers and records of the PUEBLO or his subcontractors which are directly pertinent to this AGREEMENT for the purpose of making audits, examination excerpts, and transcriptions.

SECTION 11. AUDIT EXCEPTIONS

If Federal or State audit exceptions are made relating to this AGREEMENT, the party responsible for any exception shall reimburse all costs incurred by the other party associated with defending against the audit exceptions or performing an audit or follow-up audit including but not limited to:
audit fees, court costs, attorneys fees based on reasonable charges in the community, travel costs, penalty assessments, and all other costs of whatever nature.

SECTION 12. RETENTION OF RECORDS

The parties shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the Project, and shall make all such materials available to one another and the New Mexico Department of Transportation, the FTA, the Comptroller General of the United States or their representatives at any reasonable time during the term of this AGREEMENT for three (3) years from the date of the last expenditure report.

SECTION 13. SUBCONTRACTS

The NCRTD shall not assign any portion of the work to be performed under this AGREEMENT, or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this AGREEMENT without the prior written approval of the PUEBLO.

Should subcontract(s) be authorized, the subcontractor(s) shall be subject to all provisions of this AGREEMENT.

SECTION 14. TORT CLAIMS ACT

No provision of the AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the NCRTD or the PUEBLO arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. or any applicable consent to suit by either party.

SECTION 15. OFFICIALS NOT TO BENEFIT

No member of the New Mexico Legislature nor any member of or delegate to Congress shall be admitted to any share or part of this AGREEMENT or to any benefit that may arise therefrom. The provisions of this Section shall be extended to all public employees, officers, or tribal council members.

SECTION 16. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

The parties make mutual assurances to one another that the assurances and warranties which were signed as part of the §5311 grant application are to their knowledge true and correct.

Both parties shall comply with all other Federal, State and local laws, ordinances, rules and regulations applicable to the performance of this AGREEMENT and the work hereunder. All Federal and State regulations, laws and documents referenced in this AGREEMENT are to be considered as though fully written herein.
SECTION 17. CHANGES

Either party may request an amendment or modification of this AGREEMENT. Changes mutually agreed upon shall be incorporated in written amendments to this AGREEMENT, which amendments shall become valid only after having been fully executed by the parties hereto.

SECTION 18. EQUAL OPPORTUNITY COMPLIANCE

The parties agree to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this AGREEMENT. If a party is found to not be in compliance with these requirements during the term of this AGREEMENT, the party agrees to take appropriate steps to correct these deficiencies.

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The Recipient/Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The recipient shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the recipient to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy, as the NCRTD and the State of New Mexico Department of Transportation deems appropriate.

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This AGREEMENT and all work hereunder shall be subject to the laws, rules, regulations, jurisdiction and decrees of the State of New Mexico.

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This AGREEMENT incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written AGREEMENT. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall become valid or enforceable unless embodied in this AGREEMENT.

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The parties shall comply with all federal, State and local laws and ordinances applicable to the work called for herein. The parties further agree to operate under and be controlled by Title VI and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights
Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled “Equal Employment Opportunity”, as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and incorporated herein by reference.

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For complete FTA provisions and requirements, please refer to the FTA Master Agreement:


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This AGREEMENT is not intended by any of the provisions of any part of the AGREEMENT to create in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to property, and/or any other claim(s) whatsoever pursuant to the provisions of this AGREEMENT.

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Dan Barrone, Chairman                     Title: Governor Frederick Vigil
Approved as to form:

Peter A. Dwyer
NCRTD Counsel

Approved as to form:

Tesoque Pueblo Counsel
Title: Resolution 2016-12 authorizing the NCRTD Staff to apply for Federal funding through the FFY2016 TIGER grant program for the following project: a Maintenance Facility, Wash Bay, and Fueling Station.

Prepared By: Stacey McGuire, Planning, Projects & Grants Manager

Summary: NCRTD Staff is seeking Board approval to apply for FFY2016 TIGER grant funding for a Maintenance Facility, Wash Bay, and Fueling Station project.

Background: The construction of the Transit Maintenance Facility will include a Vehicle Maintenance Garage, a Vehicle Wash Bay and a Fueling Station, to fulfill current needs as well as being capable of accommodating future operations and fleet expansion. Current fleet inventory is approximately 45 vehicles, ranging in size from 40 foot buses to 5-passenger transport vans and standard-size vehicles. Fleet expansion is anticipated to be one (1) to two (2) vehicles annually. The Maintenance Facility complex will be situated on the existing approximately 7 acre site adjacent to the Jim West Regional Transit Center and Vehicle Parking Yard. Work will include site preparation, geotechnical evaluation and preparation, environmental assessment, final design and construction. The facility-to-be design team will maximize utilization of green building energy saving facility standards wherever possible.

The Board of Directors authorized the Staff to move forward with the conceptual design at their February 1, 2013 meeting, with the design contract ultimately awarded to Huitt-Zollars in July 2013. At the March 2014 Board meeting, Huitt-Zollars presented its design findings and construction and general cost estimates. Site assessments and soil borings were also completed. Upon completion of final design and bidding, the Maintenance Facility Complex will be shovel-ready.

Recommended Action: It is recommended that the Board move to adopt Resolution 2016-12 Authorizing the NCRTD Staff to apply for Federal funding through the FFY2016 TIGER grant program for a Maintenance Facility, Wash Bay, and Fueling Station. The FFY2015 TIGER grant application deadline is April 29, 2016.
**Options/Alternatives:**
- Board approval to adopt Resolution 2016-12 Authorizing the NCRTD Staff to apply for Federal funding through the FFY2016 TIGER grant program for a Maintenance Facility, Wash Bay, and Fueling Station; or
- Do not apply for FFY2016 TIGER funding, direct Staff to seek alternative funding sources; or
- Do nothing; do not attempt to procure funds to construct a Maintenance Facility Complex and continue to outsource vehicle maintenance services.

**Fiscal Impact:** FFY2016 TIGER funds for rural areas will provide up to 100% of the cost of the project; however, the NOFA does emphasize that projects that demonstrate a local match component will increase their competitiveness in the TIGER arena. Given this, it is recommended that the NCRTD commit to a 5% match for the Maintenance Facility Complex.

The NCRTD will be requesting TIGER funds for the Maintenance Facility, Fueling Station and Vehicle Wash Bay for the approximate amount of $5,862,499 (assuming an NCRTD match of 5% or $308,553; estimated total project cost is $6,171,052). The funding request will provide a “phased” funding option in which the Maintenance Facility, Vehicle Wash Bay and Fueling Station will each be presented as offering stand-alone utility, meaning each component is not dependent on the others to be useful. This allows the selection committee flexibility to award one, two, or all three components of the Project. The possible award would significantly impact the overall cost of the project as well as potentially improve the ultimate construction and implementation timeline.

**Attachments:**
Resolution No. 2016-12
FFY2016 TIGER NOFO (Notice of Funding Opportunity)
North Central Regional Transit District (NCRTD)  
Resolution 2016-12  

A RESOLUTION AUTHORIZING THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT TO APPLY FOR FEDERAL FUNDING THROUGH THE FFY2016 TIGER GRANT PROGRAM FOR A MAINTENANCE FACILITY, WASH BAY, AND FUELING STATION  

WHEREAS, the USDOT issued a notice for funding availability for the FFY2016 TIGER grant program on February 26, 2016; and  

WHEREAS, and final applications are due April 29, 2016; and  

WHEREAS, the NCRTD has identified capital improvements related to the efficient and effective day-to-day operations and maintenance of fleet; and  

WHEREAS, upon selection to receive TIGER FFY2016 funds, the NCRTD is committed to provide a five (5) percent match ($308,553) of overall project cost ($6.171 million); and  

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Section 73-25-1 et seq.); and  

WHEREAS, the NCRTD is a sub-division of the State of New Mexico; and  

WHEREAS, the NCRTD was approved and certified by the New Mexico Department of Transportation on the 14th day of September 2004;  

NOW, THEREFORE, BE IT RESOLVED by the NCRTD Board that the request for NCRTD Board authorization and support of Staff submitting for a FFY2016 TIGER grant to fund a new Maintenance Facility, Wash Bay, and Fueling Station is approved.  

PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 8th DAY OF APRIL, 2016.  

__________________________________________  
Daniel Barrone, Chairman  

Approved as to form:  

__________________________________________  
Peter Dwyer, Counsel
In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(3), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to Michigan to purchase twenty motorcycles for training purposes. Michigan seeks both a non-availability waiver—where the product is not produced in the United States in sufficient quantities—and a cost basis waiver—where the purchase of a comparable domestic made motorcycle is 25 percent greater than the cost of a foreign a made motorcycle. We have construed this as a non-availability waiver request because a cost basis waiver is not appropriate when there is no comparable domestic product against which to compare the price of the foreign product. Here, no domestic manufacturer produces a motorcycle with 250 CC engine displacement. As smaller engine displacement is common for training purposes and no American manufacturer produces motorcycles with this specification, a non-availability waiver is appropriate.

This waiver applies to Michigan and all other States seeking to use section 402 and 405 funds to purchase the make and model motorcycles above and for the purposes mentioned herein. This waiver will continue through fiscal year 2016 and will allow the purchase of these items as required for Michigan’s OHSP and its motorcyclist training programs. Accordingly, this waiver will expire at the conclusion of fiscal year 2016 (September 30, 2016). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America requirements is appropriate for certain Suzuki, Yamaha and Honda motorcycles.

Written comments on this finding may be submitted through any of the methods discussed above. NHTSA may reconsider these findings, if through comment, it learns of and can confirm the existence of a comparable domestically made product to the items granted a waiver.

This finding should not be construed as an endorsement or approval of any products by NHTSA or the U.S. Department of Transportation. The United States Government does not endorse products or manufacturers.

multijurisdictional projects which are difficult to fund through traditional Federal programs. Successful TIGER projects leverage resources, encourage partnership, catalyze investment and growth, fill a critical void in the transportation system or provide a substantial benefit to the nation, region or metropolitan area in which the project is located. The FY 2016 TIGER program will continue to make transformative surface transportation investments that dramatically improve the status quo by providing significant and measurable improvements over existing conditions. Transformative improvements anchor broad and long-lasting, positive changes in economic development, safety, quality of life, environmental sustainability, or state of good repair. Because each TIGER project is unique, applicants are encouraged to present, in measurable terms, how TIGER investment will lead to transformative change(s) in their community.

The FY 2016 TIGER program will fund transformative projects of all eligible types, including projects that promote Ladders of Opportunity, to the extent permitted by law. The FY 2014 TIGER and FY 2015 TIGER programs gave consideration to projects that sought to improve access to reliable, safe, and affordable transportation for disconnected communities in urban, suburban, and rural areas. This included, but was not limited to, capital projects that better connected people to jobs, removed physical barriers to access, and strengthened communities through neighborhood redevelopment. The FY 2015 and 2016 TIGER programs clearly identify this concept as Ladders of Opportunity. Ladders of Opportunity projects may increase connectivity to employment, education, services and other opportunities; support workforce development; or contribute to community revitalization, particularly for disadvantaged groups: Low income groups, persons with visible and hidden disabilities, elderly individuals, and minority persons and populations.

B. Federal Award Information

The FY 2016 Appropriations Act appropriated $500 million to be awarded by DOT for the TIGER Discretionary Grants program. The FY 2016 TIGER Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. The Act also allows DOT to use a small portion of the $500 million for oversight and administration of grants and credit assistance made under the TIGER Discretionary Grants program. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations.

The FY 2016 Appropriations Act specifies that TIGER Discretionary Grants may not be less than $5 million and not greater than $100 million, except that for projects located in rural areas (as defined in Section C.3) the minimum TIGER Discretionary Grant size is $1 million.

Pursuant to the FY 2016 Appropriations Act, no more than 20 percent of the funds made available for TIGER Discretionary Grants (or $100 million) may be awarded to projects in a single State. The Act also directs that not less than 20 percent of the funds provided for TIGER Discretionary Grants (or $100 million) shall be used for projects located in rural areas. Further, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes.

The FY 2016 Appropriations Act requires that FY 2016 TIGER funds are only available for obligation through September 30, 2019. Obligation occurs when a selected applicant and DOT enter into a written grant agreement and is generally after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements. No FY 2016 TIGER funds may be expended (actually paid out) after September 30, 2024. As part of the review and selection process described in Section E.2., DOT will consider whether a project is ready to proceed with an obligation of grant funds from DOT within the statutory time provided. No waiver is possible for these deadlines.

The FY 2016 Appropriations Act allows for up to 20 percent of available funds (or $100 million) to be used by the Department to pay the subsidy and administrative costs for a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 ("TIFIA") program, if that use of the FY 2016 TIGER funds would further the purposes of the TIGER Discretionary Grants program.

Recipients of prior TIGER Discretionary Grants may apply for funding to support additional phases of a previously funded project, if that use of the FY 2016 TIGER funds would further the purposes of the TIGER Discretionary Grants program. A relevant DOT modal administration will administer each TIGER Discretionary Grant, pursuant to a grant agreement between the TIGER Discretionary Grant recipient and that modal administration.

C. Eligibility Information

To be selected for a TIGER Discretionary Grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project.

1. Eligible Applicants

Eligible Applicants for TIGER Discretionary Grants are State, local, and tribal governments, including U.S. territories, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local governments.

Multiple States or jurisdictions may submit a joint application and must identify a lead applicant as the primary point of contact, and also identify the primary recipient of the award. Each applicant in a joint application must be an Eligible Applicant. Joint applications must include a description of the roles and responsibilities of each applicant and must be signed by each applicant.

2. Cost Sharing or Matching

TIGER Discretionary Grants may be used for up to 80 percent of the costs of a project located in an urban area and up to 100 percent of the costs of a project located in a rural area. Urban area and rural area are defined in section C.3.i. of this notice. Matching funds are subject to the same Federal requirements described in Section F.2. as awarded funds.

DOT will consider the following funds or contributions as a local match for the purpose of this program, and as further described in Section F.1.v:

- Non-Federal funds
- Funds from the Tribal Transportation Program (23 U.S.C. 202)
- Toll credits under 23 U.S.C. 120(f)

1 To meet match requirements, the minimum total project cost for a project located in an urban area must be $8.25 million.
3. Other

1. Eligible Projects—Eligible projects for TIGER Discretionary Grants are capital projects that include, but are not limited to: (1) Highway or bridge projects eligible under title 23, United States Code (including bicycle and pedestrian related projects); (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and (5) intermodal projects. This description of eligible projects is identical to the description of eligible projects under earlier rounds of the TIGER Discretionary Grants program.2

Research, demonstration, or pilot projects are eligible only if they result in long-term, permanent surface transportation infrastructure that has independent utility as defined in Section C.3.iii. Applicants are strongly encouraged to submit applications only for eligible award amounts.

ii. Rural/Urban Definition—For purposes of this notice, DOT defines “rural area” as any area not within an Urbanized Area, as such term is defined by the Census Bureau, and will consider to be in a rural area if all or the majority of a project (determined by geographic location(s) where the majority of project money is to be spent) is located in a rural area. In this notice “urban” means not rural. This definition affects three aspects of the program. First, the FY 2016 Appropriations Act directs that not less than $100 million of the funds provided for TIGER Discretionary Grants are to be used for projects in rural areas. Second, for a project in a rural area the minimum award is $1 million. Third, the Secretary may increase the Federal share above 80 percent to pay for the costs of a project in a rural area.

To the extent more than a de minimis portion of a project is located in an Urbanized Area, applicants should identify the estimated percentage of project costs that will be spent in Urbanized Areas and the estimated percentage that will be spent in rural areas. The Department will not provide an award to a project in a rural area without information showing that the majority of the project funds will be expended in a rural area. Rural and urban definitions differ in some other DOT programs, including TIFIA and the Nationally Significant Freight and Highway Programs Program (§ 1105; 23 U.S.C. 117).

iii. Project Components—An application may describe a project that contains more than one component, and may describe components that may be carried out by parties other than the applicant. DOT may award funds for a component, instead of the larger project, if that component (1) independently meets minimum award amounts described in Section B and all eligibility requirements described in Section C; (2) independently aligns well with the selection criteria specified in Section E; and (3) meets National Environmental Policy Act (NEPA) requirements with respect to independent utility. Independent utility means that the component will represent a transportation improvement that is usable and represents a reasonable expenditure of DOT funds even if no other improvements are made in the area, and will be ready for intended use upon completion of that component’s construction. All project components that are presented together in a single application must demonstrate a relationship or connection between them. (See Section D.2.f. for Required Approvals).

Applicants should be aware that, depending upon the relationship between project components and upon applicable Federal law, DOT funding of only some project components may make other project components subject to Federal requirements as described in Section F.2.

DOT strongly encourages applicants to identify in their applications the project components that have independent utility and separately detail costs and requested TIGER funding for those components. If the application identifies one or more independent project components, the application should clearly identify how each independent component addresses selection criteria and produces benefits on its own, in addition to describing how the full proposal of which the independent component is a part addresses selection criteria.

iv. Limit on Number of Applications—Each lead applicant may submit no more than three applications. Unrelated project components should not be bundled in an application for the purpose of avoiding the three applications per lead applicant limit. Please note that the three-application limit applies only to applications where the applicant is the lead applicant. There is no limit on the number of applications for which an applicant can be listed as a partnering agency. If a lead applicant submits more than three applications as the lead applicant, only the first three received will be considered. The Nationally Significant Freight and Highway Projects (NSFHP) program (§ 1105; 23 U.S.C. 117) and the 2016 TIGER Discretionary Grant program have independent application limits. Applicants applying to both the NSFHP and the 2016 TIGER Discretionary Grants program may apply for the same project to both programs (noted in each application), but must timely submit separate applications that independently address how the project satisfies applicable selection criteria for the relevant grant program.

D. Application and Submission Information

1. Address

Applications must be submitted to Grants.gov. General information for submitting applications through Grants.gov can be found at www.transportation.gov/TIGER along with specific instructions for the forms and attachments required for submission. Failure to submit the information as requested can delay review of the application.

2. Content and Form of Application Submission

Applications must include the Standard Form 424 (Application for Federal Assistance), the Project Narrative, and any additional required attachments as specified by the instructions provided. Applicants should also complete and attach to their application the “TIGER 2016 Project Information” form available at www.transportation.gov/TIGER.

Additional clarifying guidance and FAQs to assist applicants in completing the SF–424 are available at www.transportation.gov/TIGER. DOT may ask any applicant to supplement data in its application, but expects applications to be complete upon submission. To the extent practicable, applicants should provide data in evidence of project merits in a form that is verifiable or publicly available.

2 Please note that the Department may use a TIGER Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for TIGER Discretionary Grants to pay for the surface transportation components of these projects.

3 For Census 2010, the Census Bureau defined an Urbanized Area (UA) as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Web site at http://www2.census.gov/geo/maps/dc/t6map/UUAUC_ReMap/uai/. Urban Clusters (UCs) are rural areas for purposes of the TIGER Discretionary Grants program. Please note that individual jurisdictions might have a population of fewer than 50,000, if they are included as part of an UA, they will be classified as urban for purposes of the TIGER program.
The Project Narrative (attachment to SF–424) must respond to the application requirements outlined below. The application must include information required for DOT to assess each of the criteria specified in Section E.1 (Criteria). Applicants must demonstrate the responsiveness of a project to any pertinent selection criteria with the most relevant information that they can provide, regardless of whether such information has been specifically requested, or identified, in this notice. An application should provide evidence of the feasibility of achieving project milestones and of financial capacity and commitment in order to support project readiness.

An application should also include a description of how the project addresses the needs of the area, creates economic opportunity, and sparks community revitalization, particularly for disadvantaged groups.

DOT recommends that the project narrative adhere to the following basic outline and, in addition to a detailed statement of work, project schedule, and project budget, should include a table of contents, maps, and graphics as appropriate that make the information easier to review:

i. Project Description (including a description of what TIGER funds will support, information on the expected users of the project, a description of the transportation challenges that the project aims to address, how the project will address these challenges, and whether, and how, the project promotes Ladders of Opportunity.) Include relevant data, such as passenger or freight volumes, congestion levels, infrastructure condition, and safety experience;

ii. Project Location (a detailed description of the proposed project and geospatial data for the project, including a map of the project’s location and its connections to existing transportation infrastructure, as well as a description of the national, regional, or metropolitan area in which the project is located, including economic information such as population size, median income for transportation facility users, or major industries affected, and project map);

iii. Project Parties (information about the grant recipient and other project parties);

iv. Grant Funds and Sources/Uses of Project Funds (information about the amount of grant funding requested, availability/commitment of fund sources and uses of all project funds, total project costs, percentage of project costs that would be paid with TIGER Discretionary Grants funds, and the identity of all parties providing funds for the project and their percentage shares.) Include any other pending or past Federal funding requests for the project as well as Federal funds already provided under other programs and the size, nature/source of the required match for those funds, to clarify that these are not the same funds counted under the matching requirement for this grant request. Describe any restrictions attached to specific funds; compliance or a schedule for compliance with all conditions applicable to each funding source, and, to the extent possible, funding commitment letters from non-Federal sources.

v. Selection Criteria (information about how the project aligns with each of the primary and secondary selection criteria):

(i) Primary Selection Criteria

(a) State of Good Repair

(b) Economic Competitiveness

(c) Quality of Life

(d) Environmental Sustainability

(e) Safety

(ii) Secondary Selection Criteria

(a) Innovation

(b) Partnership

vi. Results of Benefit-Cost Analysis;

vii. Project Readiness, including planning approvals, NEPA and other environmental reviews/approvals, (including information about permitting, legislative approvals, State and local planning, and project partnership and implementation agreements); and

viii. Federal Wage Rate Certification

(a certification, signed by the applicant(s), stating that it will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code [Federal wage rate requirements], as required by the FY 2016 Appropriations Act).

The purpose of this recommended format is to ensure that applications clearly address the program requirements and make critical information readily apparent.

DOT recommends that the project narrative be prepared with standard formatting preferences (i.e., a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins). The project narrative may not exceed 30 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. Cover pages, tables of contents, and the federal wage rate certification do not count towards the 30-page limit for the narrative portion of the application. The only substantive portions of the application that may exceed the 30-page limit are any supporting documents (including a more detailed discussion of the benefit-cost analysis) provided to support assertions or conclusions made in the 30-page narrative section. If possible, Web site links to supporting documentation (including a more detailed discussion of the benefit-cost analysis) should be provided rather than copies of these materials. Otherwise, supporting documents should be included as appendices to the application. Applicants’ references to supporting documentation should clearly identify the relevant portion of the supporting material. At the applicant’s discretion, relevant materials provided previously to a relevant modal administration in support of a different DOT discretionary financial assistance program (for example, New Starts or TIFIA) may be referenced and described as unchanged. This information need not be resubmitted for the TIGER Discretionary Grant application but may be referenced as described above; Web site links to the materials are highly recommended. DOT recommends using appropriately descriptive file names (e.g., “Project Narrative,” “Maps,” “Memoranda of Understanding and Letters of Support,” etc.) for all attachments.

3. Unique Entity Identifier and System for Award Management (SAM)

DOT may not make a TIGER Discretionary Grant award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through Grants.gov, applicants must:

i. Obtain a Data Universal Numbering System (DUNS) number;

ii. Register with the System for Award Management (SAM) at www.SAM.gov;

iii. Create a Grants.gov username and password; and

iv. The E-Business Point of Contact (POC) at the applicant’s organization must respond to the registration email from Grants.gov and login at Grants.gov to authorize the applicant as the Authorized Organization Representative (AOR). Please note that there can be no more than one AOR for an organization.

For information and instructions on each of these processes, please see instructions at http://www.grants.gov/web/grants/applicants/applicant-faqs.html.

If an applicant is selected for an award, the applicant will be required to maintain an active SAM registration.
with current information throughout the period of the award.

4. Submission Dates and Times

i. Deadline: Applications must be submitted by 8:00 p.m. EDT on April 29, 2016. The Grants.gov “Apply” function will open on February 26, 2016.

ii. Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through Grants.gov will be eligible for award.

Applicants are strongly encouraged to make submissions in advance of the deadline. Please be aware that applicants must complete the Grants.gov registration process before submitting the final application, and that this process usually takes 2–4 weeks to complete. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7:00 a.m. to 9:00 p.m. EDT.

iii. Late Applications: DOT will not consider applications received after the deadline except in the case of unforeseen technical difficulties outlined below. DOT will not consider late applications that are the result of failure to register or comply with Grants.gov applicant requirements in a timely manner.

Applicants experiencing technical issues with Grants.gov that are beyond the applicant’s control must contact TIGERGrants@dot.gov or Howard Hill at 202–366–0301 prior to the corresponding deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide:

a. Details of the technical issue experienced.

b. Screen capture(s) of the technical issue experienced along corresponding “Grant tracking number” (GrantsGov).

c. The “Legal Business Name” for the applicant that was provided in the SF–424 or pre-application.

d. The AOR name submitted in the SF–424 (Grants.gov).

e. The DUNS number associated with the pre-application/registration.

f. The Grants.gov or Pre-Application Help Desk Tracking Number.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in this notice of funding availability; and (4) technical issues experienced with the applicant’s computer or information technology (IT) environment. After DOT staff review all of the information submitted and contacted the Grants.gov Help Desk to validate the technical issues reported, DOT staff will contact applicants to either approve or deny the request to submit a late application through Grants.gov. If the technical issues reported cannot be validated, the application will be rejected as untimely.

5. Funding Restrictions

There is no specific set-aside funding solely for pre-construction activities in the FY 2016 TIGER Discretionary Grants program. However, these activities may be eligible to the extent that they are part of an overall construction project that receives TIGER Discretionary Grants funding. For TIGER funds to be considered for pre-construction activities, the applicant must clearly state, in the application, the pre-construction activity and amount of TIGER funds that will be expended on that activity.

E. Application Review Information

1. Criteria

This section specifies the criteria that DOT will use to evaluate and award applications for TIGER Discretionary Grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. There are two categories of selection criteria, “Primary Selection Criteria” and “Secondary Selection Criteria.” Within each relevant selection criterion, applicants are encouraged to present in measurable terms how TIGER investment will lead to transformative change(s) in their community. Projects will also be evaluated for demonstrated project readiness, benefits and costs, and cost share.

i. Primary Selection Criteria

Applications that do not demonstrate a likelihood of significant long-term benefits based on these criteria will not proceed in the evaluation process. DOT does not consider any primary selection criterion more important than the others. The primary selection criteria, which will receive equal consideration, are:

a. Safety. Improving the safety of U.S. transportation facilities and systems for all modes of transportation and users.

b. State of Good Repair. Improving the condition and resilience of existing transportation facilities and systems. DOT will assess whether and to what extent: (1) The project is consistent with relevant plans to maintain transportation facilities or systems in a state of good repair and address current and projected vulnerabilities; (2) if left unimproved, the poor condition of the asset will threaten future transportation network efficiency, mobility of goods or accessibility and mobility of people, or economic growth; (3) the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure; (4) a sustainable source of revenue is available for operations and maintenance of the project; and (5) the project improves the transportation asset’s ability to withstand probable occurrence or recurrence of an emergency or major disaster or other impacts of climate change. Additional consideration will be given to a project’s contribution to improving the overall reliability of a multimodal transportation system that serves all users, and to projects that offer significant transformational improvements to the condition of existing transportation systems and facilities.

c. Economic Competitiveness. Contributing to the economic competitiveness of the United States over the medium- to long-term, revitalizing communities, and creating and preserving jobs. DOT will assess whether the project will (1) decrease transportation costs and improve access for Americans with transportation disadvantages through reliable and timely access to employment centers, education and training opportunities, and other basic needs of workers; (2) improve long-term efficiency, reliability or costs in the movement of workers or goods; (3) increase the economic productivity of land, capital, or labor at

4 Pre-Construction activities are activities related to the planning, preparation, or design of surface transportation projects. These activities include but are not limited to environmental analysis, feasibility studies, design, and engineering of surface transportation projects as described in Section C.3.
specific locations, or through community revitalization efforts; (4) result in long-term job creation and other economic opportunities; or (5) help the United States compete in a global economy by facilitating efficient and reliable freight movement, including border infrastructure and projects that have a significant effect on reducing the costs of transporting export cargoes. DOT will prioritize projects that exhibit strong leadership and vision, and are part of a larger strategy to significantly revitalize communities and improve economic opportunities.

d. Quality of Life. Increasing transportation choices and improving access to essential services for people in communities across the United States, particularly for disadvantaged groups. DOT will assess whether the project furthers the six “Livability Principles” developed by DOT with the Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) as part of the Partnership for Sustainable Communities.5 DOT will focus on the first principle, the creation of affordable and convenient transportation choices.6 Further, DOT will prioritize projects developed in coordination with land-use planning and economic development decisions, including through programs like TIGER Planning Grants, the Department of Housing and Urban Development’s Regional Planning Grants, the Environmental Protection Agency’s Brownfield Area-Wide Planning Pilot Program, and technical assistance programs focused on quality of life or economic development. DOT will assess the extent to which the project will anchor transformative, positive, and long-lasting quality of life changes at the national, regional or metropolitan level.

e. Environmental Sustainability. Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions, improving water quality, avoiding and mitigating environmental impacts and otherwise benefitting the environment. DOT will assess the project’s ability to: (i) Reduce energy use and air or water pollution; (ii) avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; or (iii) provide environmental benefits, such as brownfield redevelopment, ground water recharge in areas of water scarcity, wetlands creation or improved habitat connectivity, and stormwater mitigation, including green infrastructure. Applicants are encouraged to provide quantitative information, including baseline information that demonstrates how the project will reduce energy consumption, stormwater runoff, or achieve other benefits for the environment.

ii. Secondary Selection Criteria

a. Innovation. Use of innovative strategies to pursue the long-term outcomes outlined above. DOT will also assess the extent to which the project uses innovative technology to pursue one or more of the long-term outcomes outlined above or to significantly enhance the operational performance of the transportation system. DOT will also assess the extent to which the project incorporates innovations in transportation funding and finance and leverages both existing and new sources of funding through both traditional and innovative means. Further, DOT will consider the extent to which the project utilizes innovative practices in contracting, congestion management, safety management, asset management, or long-term operations and maintenance. DOT is interested in projects that apply innovative strategies to improve the efficiency of project development or to improve project delivery.

b. Partnership. Demonstrating strong collaboration among a broad range of stakeholders, and the product of a robust, inclusive planning process. (i) Jurisdictional and Stakeholder Collaboration. DOT will consider the extent to which projects involve multiple partners in project development and funding, such as State and local governments, other public entities, and/or private or nonprofit entities. DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions to achieve national, regional, or metropolitan benefits. In the context of public-private partnerships, DOT will assess the extent to which partners are encouraged to ensure long-term asset performance, such as through pay-for-success approaches.

(ii) Disciplinary Integration. DOT will consider the extent to which projects include partnerships that bring together diverse transportation agencies and/or are supported, financially or otherwise, by non-transportation public agencies that are innovative partners. For example, DOT will give priority to transportation projects that are coordinated with economic development, housing, water infrastructure, and land use plans and policies or other public service efforts. Similarly, DOT will give priority to transportation projects that are coordinated with housing, social services, or education agencies. Projects that demonstrate a robust planning process—such as those conducted with DOT’s various planning programs and initiatives, the Department of Housing and Urban Development’s Regional Planning Grants and Choice Neighborhood Planning Grants, or the Environmental Protection Agency’s Brownfield Area-Wide Planning Pilot Program, as well as technical assistance programs focused on livability or economic development planning—will also be given priority.

iii. Demonstrated Project Readiness

For projects that receive funding in this round of TIGER, DOT must obligate funds by September 30, 2019, or the funding will expire therefor. DOT will assess every application to determine whether the project is likely to proceed to obligation by the statutory deadline (see Additional Information on Project Readiness Guidelines located at www.transportation.gov/TIGER for further details), as evidenced by:

a. Technical Feasibility. The technical feasibility of the project should be demonstrated by engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the TIGER application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants must include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

b. Financial Feasibility. The viability and completeness of the project’s financing package (assuming the availability of the requested TIGER Discretionary Grant funds) should be demonstrated including evidence of stable and reliable capital and (as appropriate) operating fund commitments sufficient to cover estimated costs; the availability of contingency reserves should planned capital or operating revenue sources not materialize; evidence of the financial condition of the project sponsor; and evidence of the grant recipient’s ability to manage grants. The applicant must include a detailed project budget in this section of the application containing a breakdown of how the funds will be

6 In full, this principle reads: “Provide more transportation choices. Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nation’s dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.”
spent. That budget must estimate—both dollar amount and percentage of cost—the cost of work for each project component. If the project will be completed in segments or phases, a budget for each segment or phase must be included. Budget spending categories must be broken down between TIGER, other Federal, and non-Federal sources, and identify how each funding source will share in each activity.

c. Project Schedule. The applicant must include a detailed project schedule that includes all major project milestones—such as start and completion of environmental reviews and approvals; design; right of way acquisition; approval of plan; specification and estimate (PS&E); procurement; and construction—without sufficient detail information to demonstrate that:

(i) All necessary pre-construction activities will be complete to allow grant funds to be obligated no later than June 30, 2019, to give DOT reasonable assurance that the TIGER Discretionary Grant funds will be obligated sufficiently in advance of the September 30, 2019, statutory deadline, and that any unexpected delays will not put the funds at risk of expiring before they are obligated;

(ii) the project can begin construction quickly upon receipt of a TIGER Discretionary Grant, and that the grant funds will be spent steadily and expeditiously once construction starts; and

(iii) any applicant that is applying for a TIGER Discretionary Grant and does not own all of the property or right-of-way required to complete the project should provide evidence that the property and/or right-of-way acquisition can and will be completed expeditiously.

DOT may revoke any award of TIGER Discretionary Grant funds and award those funds to another project if the funds cannot be timely obligated or construction does not begin in accordance with the project schedule established in the grant agreement.

d. Required Approvals

(i) Environmental Permits and Reviews. An application for a TIGER Discretionary Grant must detail whether the NEPA process is underway but not complete, the application must detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion. Applicants must provide a Web site link or other reference to NEPA documents prepared.

(2) Information on reviews by other agencies. An application for a TIGER Discretionary Grant must indicate whether the proposed project requires reviews or approval actions by other agencies, indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and/or demonstrate compliance with any other applicable Federal, State, or local requirements.

(3) Environmental studies or other documents—preferably through a Web site link—that describe in detail known project impacts, and possible mitigation for those impacts.

(4) A description of discussions with the appropriate DOT modal administration field or headquarters office regarding compliance with NEPA and other applicable environmental reviews and approvals.

(ii) Legislative Approvals. The applicant should demonstrate receipt of state and local approvals on which the project depends. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project is broadly supported.

(iii) State and Local Planning. The planning requirements of the modal administration administering the TIGER project will apply. Applicants should demonstrate that a project that is required to be included in the relevant State, metropolitan, and local planning documents has been or will be included. If the project is not included in the relevant planning documents at the time the application is submitted, the applicant should submit a certification from the appropriate planning agency that actions are underway to include the project in the relevant planning document. Because projects have different schedules, the construction start date for each TIGER Discretionary Grant will be specified in the project-specific grant agreements signed by relevant modal administration and the grant recipients and will be based on critical path items identified by applicants in response to items (i)(1) through (4) above.

e. Assessment of Project Risks and Mitigation Strategies. The applicant should identify the material risks to the project and the strategies that the lead

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9 All projects requiring an action by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) in accordance with 23 CFR part 450, must be in the metropolitan transportation plan, transportation improvement program (TIP) and statewide transportation improvement program (STIP). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. To the extent a project is required to be on a metropolitan transportation plan, TIP, and/or STIP, it will receive a TIGER Discretionary Grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and metropolitan planning organization (MPO). Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans in order to receive a TIGER Discretionary Grant. Port, freight and passenger rail projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008. This is consistent with the exemption for high-speed and intercity passenger rail projects under the Recovery Act. However, applicants seeking funding for freight and passenger rail projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals. To the extent possible, freight projects should be included in a state freight plan and supported by a state freight advisory committee (see MA-21 §§ 1117–1118). Further information and guidance information on transportation planning and is available from the FHWA and FTA sites respectively—http://www.fhwa.dot.gov/planning and http://www.fta.dot.gov/about/12347.html. Port planning guidelines are available at StrongPorts.gov.

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7 Non-Federal sources include State funds originating from State revenue funded programs, local funds originating from State or local revenue funded programs, private funds or other funding sources of non-Federal origins.
applicant and any project partners have undertaken or will undertake in order to mitigate those risks. In past rounds of TIGER Discretionary Grants, certain projects have been affected by procurement delays, environmental uncertainties, and increases in real estate acquisition costs. The applicant must assess the greatest risks to the projects and identify how the project parties will mitigate those risks. DOT will consider projects that contain risks so long as the applicant clearly and directly describes achievable mitigation strategies.

The applicant, to the extent they are unfamiliar with the Federal program, should contact DOT modal field or headquarters offices for information on what steps are pre-requisite to the obligation of Federal funds in order to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying Federal requirements.

Contacts for the Federal Highway Administration Division offices—which are located in all 50 States, Washington, DC, and Puerto Rico—can be found at http://www.fhwa.dot.gov/about/field/cfm. Contacts for the ten Federal Transit Administration regional offices can be found at http://www.fta.dot.gov/12926.html. Contacts for the nine Maritime Administration Gateway Offices can be found at http://www.marad.dot.gov/about_us_landing_page/gateway_offices/GateWay_Presence.htm. For Federal Railroad Administration Contacts, please contact TIGER applicants are available via email at TIGERGrants@dot.gov, or call Howard Hill at 202–366–0301.

iv. Project Costs and Benefits

An applicant for TIGER Discretionary Grants is generally required to identify, quantify, and compare expected benefits and costs, subject to the following qualifications: 10

An applicant must prepare and submit an analysis of benefits and costs. The level of sophistication of the benefit-cost analysis (BCA) should be reasonably related to the size of the overall project and the amount of grant funds requested in the application. For smaller projects, DOT understands that a less detailed analysis for items such as surveys, travel demand forecasts, market forecasts, and statistical analyses is appropriate. For larger projects, DOT expects that applicants will provide a robust and detailed analysis of benefits and costs. Any subjective estimates of benefits and costs should be quantified, and the applicant should provide appropriate evidence to support their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least one non-monetary quantitative estimate (in physical, non-monetary terms) should be provided. Examples of such benefits include:

- Crash rates
- Ridership estimates
- Emissions levels
- Energy efficiency improvements

However, an applicant should use qualitative measures to include benefits that cannot be readily monetized or quantified.

Depending on the level of sophistication of a BCA that is reasonably related to the size of an overall project, the lack of a useful analysis of expected project benefits and costs may be a basis for not selecting a project for award of a TIGER Discretionary Grant. However, DOT will use the results of the BCA review as one of several criteria considered during the TIGER Discretionary Grants evaluation process.

The 2016 Benefit-Cost Analyses Guidance for TIGER Grant Applicants and in the BCA Resource Guide (available at www.transportation.gov/TIGER) provides detailed guidance for preparing benefit-cost analyses. A recording of the Benefit-Cost Analysis Practitioner’s Workshop (2010) and two BCA-related webinars are also available for viewing at www.transportation.gov/TIGER, along with examples of benefit-cost analyses that have been submitted in previous rounds of TIGER.

Spreadsheets supporting the benefit-cost analysis should be original Excel spreadsheets, not PDFs of those spreadsheets. Benefits should be presented, whenever possible, in a tabular form showing benefits and costs in each year for the useful life of the project. The application should include projections of costs, travel conditions, safety outcomes, and environmental impacts for both the build and no-build scenarios for the project for each year between the completion of the project and a point in time at least 20 years beyond the project’s completion date or the lifespan of the project, whichever is closer to the present. The BCA should demonstrate how the benefits and costs of the proposed project are based on differences in the future values of these measures between the baseline or no-build scenario and with the proposed project in place. Benefits and costs should both be discounted to the year 2016, and calculations should be presented for discounted values of both the stream of benefits and the stream of costs. If the project has multiple components, each of which has independent utility, the benefits and costs of each component should be estimated and presented separately. The results of the benefit-cost analysis should be summarized in the Project Narrative section of the application itself, but the details should be presented in an attachment to the application if the full analysis cannot be included within the page limit for the project narrative.

BCA Flexibility for Tribal Governments: Based on feedback over previous rounds of TIGER, DOT recognizes that the benefit-cost analysis can be particularly burdensome on Tribal governments. Therefore, the Department is providing additional flexibility to Tribal governments for the purposes of this notice. At their discretion, Tribal applicants may elect to provide raw data to support the need for a project (such as crash rates, ridership estimates, and the number of people who will benefit from the project), without additional analysis. DOT will use this data to develop estimates (given the data provided) of benefits and costs. DOT will use these results as one of several criteria considered during the TIGER Discretionary Grants evaluation process. Examples of BCAs by successful Tribal Discretionary Grants evaluation process.

The 2016 Appropriations Act directs DOT to prioritize projects that require a contribution of Federal funds to complete an overall financing package, and all projects can increase their competitiveness for purposes of the TIGER program by demonstrating significant non-Federal financial contributions. The applicant should clearly demonstrate the extent to which the project cannot be readily and efficiently completed without a TIGER Discretionary Grant, and describe the extent to which other sources of funds, including Federal, State, or local funding, may or may not be readily available for the project. The Department may consider the form of cost sharing presented in an application. Firm commitments of cash that indicate a complete project funding package and demonstrate local support for the project are more competitive than other
forms of cost sharing. DOT recognizes that applicants have varying abilities and resources to contribute non-Federal contributions, especially those communities that are not routinely receiving and matching Federal funds. DOT recognizes certain communities with fewer financial resources may struggle to provide cost-share that exceeds the minimum requirements and will, therefore, consider an applicant’s broader fiscal constraints when evaluating non-Federal contributions. In the first seven rounds, on average, projects attracted more than 3.5 matching dollars for every TIGER grant dollar.

2. Review and Selection Process
DOT reviews all eligible applications received before the deadline. The TIGER review and selection process consists of three phases: Technical Review, Tier 2 Analysis consisting of project readiness and economic analysis, and Senior Review. A Control and Calibration Team ensures consistency across projects and appropriate documentation throughout the review and selection process. In the Technical Evaluation phase, teams comprising staff from the Office of the Secretary (OST) and modal administrations review all eligible applications and rate projects as Highly Recommended, Recommended, Acceptable, or Not Recommended based on how well the projects align with the selection criteria.

Tier 2 Analysis consists of (1) an Economic Analysis and (2) a Project Readiness Analysis. The Economic Analysis Team, comprising OST and modal administration economic staff, assess the potential benefits and costs of the proposed projects. The Project Readiness Team, comprising Office of the Secretary Office of Policy (OST–P) and modal administration staff, evaluates the proposed project’s technical and financial feasibility, potential risks and mitigation strategies, and project schedule, including the status of environmental approvals and readiness to proceed.

In the third review phase, the Senior Review Team, which includes senior leadership from OST and the modal administrations, considers all projects that were rated Acceptable, Recommended, or Highly Recommended and determines which projects to advance to the Secretary as Highly Rated. The Secretary selects from the Highly Rated projects for final awards.

3. Additional Information
Prior to award, each selected applicant will be subject to a risk assessment required by 2 CFR 200.205. The Department must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review information in FAPIIS and comment on any information about itself. The Department will consider comments by the applicant in addition to the other information in FAPIIS, in making a judgment about the applicant’s integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information
1. Federal Award Notice
Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at www.transportation.gov/TIGER. Following that announcement, the relevant modal administration will contact the point of contact listed in the SF 424 to initiate negotiation of the grant agreement.

2. Administrative and National Policy Requirements
All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR part 200, as adopted by DOT at 2 CFR part 1201. Additionally, applicable Federal laws, rules and regulations of the relevant modal administration administering the project will apply to the projects that receive TIGER Discretionary Grants awards, including planning requirements, Service Outcome Agreements, Stakeholder Agreements, Buy America compliance, and other requirements under DOT’s other highway, transit, rail, and port grant programs.

For projects administered by the Federal Highway Administration (FHWA), applicable Federal laws, rules, and regulations set forth in Title 23 U.S.C. and Title 23 CFR apply. For an illustrative list of the applicable laws, rules, regulations, executive orders, polices, guidelines, and requirements as they relate to a TIGER project administered by the FHWA, please see http://www.ops.fhwa.dot.gov/freight/infrastructure/tiger/fy2015_gr_exhib/index.htm. For TIGER projects administered by the Federal Transit Administration and partially funded with Federal transit assistance, all relevant requirements under chapter 53 of title 49 U.S.C. apply. For transit projects funded exclusively with TIGER Discretionary Grants funds, some requirements of chapter 53 of title 49 U.S.C. and chapter VI of title 49 CFR apply. For projects administered by the Federal Railroad Administration, FRA requirements described in 49 U.S.C. Subtitle V, Part C apply.

Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, United States Code, apply to all projects receiving funds under this program, and apply to all parts of the project, whether funded with TIGER Discretionary Grant funds, other Federal funds, or non-Federal funds.

3. Reporting
i. Progress Reporting on Grant Activities
Each applicant selected for TIGER Discretionary Grants funding must submit quarterly progress reports and Federal Financial Report (SF–425) on the financial condition of the project and the project’s progress, as well as an Annual Budget Review and Program Plan to monitor the use of Federal funds and ensure accountability and financial transparency in the TIGER program.

ii. System Performance Reporting
Each applicant selected for TIGER Discretionary Grant funding must collect information and report on the project’s observed performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes for an agreed-upon timeline, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the TIGER Discretionary Grants program are achieved. To the extent possible, performance indicators used in the reporting should align with the measures included in the application and should relate to at least one of the primary selection criteria defined in Section E. Performance reporting continues for several years after project construction is completed, and DOT does not provide TIGER Discretionary Grant funding specifically for performance reporting.

iii. Reporting of Matters Related to Recipient Integrity and Performance
If the total value of a selected applicant’s currently active grants,
cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

G. Federal Awarding Agency Contacts

For further information concerning this notice please contact the TIGER Discretionary Grants program staff via email at TIGERGrants@dot.gov, or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will post answers to questions and requests for clarifications on DOT’s Web site at www.transportation.gov/TIGER. To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact DOT directly, rather than through intermediaries or third parties, with questions. DOT staff may also conduct briefings on the TIGER Discretionary Grants selection and award process upon request.

H. Other Information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission “Contains Confidential Business Information (CBI)”; (2) mark each affected page “CBI”; and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Anthony R. Foxx, Secretary.
[FR Doc. 2016–04217 Filed 2–25–16; 8:45 am]
BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation


Proposed Information Collection Request: Notice of New Requirements and Procedures for Grant Payment Request Submission

AGENCY: Department of Transportation (DOT).

ACTION: Notice with request for comments.

SUMMARY: The Department of Transportation (DOT), Office of the Secretary (OST) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the Federal Register on October 29, 2015, allowing for a 60-day public comment period.

DATES: Comments must be submitted on or before March 28, 2016.

ADDRESSES: Direct comments to the Department of Transportation Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

• Email: oira_submission@omb.eop.gov. You must include the information collection title and OMB control number in the subject line of your message.

• Fax: 202–395–5806. Attn: Desk Officer for Department of Transportation.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from US Department of Transportation, Office of Financial Management, B–30, Room W93–431, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, (202) 366–0448, DOTElectronicInvoicing@dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Notice of Procedures for Vendor Invoice Submission Pilot.

OMB Control Number: 2106–XXXX.

Type of Request: New information collection.

Background: This notice sets forth new processes and procedures for vendors that submit invoices and receive payments from DOT Operating Administrations (OAs). The vendors involved in the pilot must meet the following requirements to participate—

• Vendors will need to have electronic internet access to register in the Delphi eInvoicing system.

• Vendors will submit invoices electronically and DOT OAs must process invoices electronically.

• The identities of system users must be verified prior to receiving access to the Delphi eInvoicing system. Prospective Users must complete a user request form and provide the following information: Full name, work address, work phone number, work email address, home address and home phone number. Prospective users must present the completed form to a Notary Public for verification. Prospective users will then return the notarized form to DOT to receive their login credentials.

Affected Public: DOT Vendors.

Total Estimated Number of Respondents: 255.

Total Estimated Number of Responses: 2603.

Estimated Total Annual Burden Hours: 5206 (initial registration only).

Frequency of Collection: One time.

Annual Estimated Total Annual Burden Costs: $52,060.

Comments: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department’s estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents.


Issued in Washington, DC, on February 17, 2016.

Habib Azarsina,
OST Privacy & PRA Officer, Department of Transportation.
[FR Doc. 2016–04212 Filed 2–25–16; 8:45 am]
BILLING CODE 4910–9X–P
Title: Resolution 2016-13 Authorizing NCRTD Staff to apply for Non-Rural Operational, Administrative and Capital Funding for Routes and Transit Services Deemed Non-Rural in Nature

Prepared By: Stacey McGuire, Planning, Projects & Grants Manager

Summary: NCRTD Staff is seeking Board approval to apply for non-rural operational, administrative and capital funding for routes and transit services deemed non-rural in nature. Funding of non-rural routes will be applied for on the Federal, State, Local level, through public and private avenues.

Background: NCRTD and NMDOT Staff recently met to discuss rural route funding. During the discussion, NCRTD was notified by NMDOT that two routes, 255 Mountain Trail and 260 La Cienega, do not qualify as rural from the Federal perspective, and thus, are not eligible to receive Federal Section 5311 Rural transit funding. As such, it was suggested by NMDOT that the two aforementioned routes are considered to provide urban transit service, and as a result, are eligible for funding through Federal Section 5307 Urban transit funding.

Currently, NMDOT is the designated recipient for Federal Section 5307 Transit funds for urbanized areas with populations of less than 200,000. NMDOT allocates the funds to small urbanized areas (through the MPO) and enters into supplemental agreements with the recipients that allow them to apply directly to FTA for the funds. The direct recipients of Section 5307 funds are the cities of Farmington, Las Cruces, Santa Fe, and Los Lunas (Rio Metro RTD).

Recommended Action: It is recommended that the Board move to adopt Resolution 2016-13 Authorizing the NCRTD Staff to apply for Federal, State and Local funding to support its routes and transit services deemed to be non-rural in nature.

Options/Alternatives:
- Board approval to adopt Resolution 2016-13 authorizing NCRTD Staff to apply for non-rural operational and capital funding for routes and transit services deemed non-rural in nature; or
- Do not attempt to procure alternate funds to support routes and transit services NCRTD provides that are categorized as non-rural in nature with the understanding that giving this
direction could result in future non-rural routes and transit service going unfunded and therefore not provided.

**Fiscal Impact:**

<table>
<thead>
<tr>
<th>ROUTE</th>
<th>OPERATING</th>
<th>CAPITAL</th>
<th>ROUTE FEDERAL REQUEST</th>
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<tr>
<td>260 La Cienega</td>
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<tr>
<td>255 Mountain Trail</td>
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**TOTAL FEDERAL REQUEST:**

$237,977

**Attachments:**

Resolution No. 2016-13
North Central Regional Transit District (NCRTD)

Resolution 2016-13

A RESOLUTION AUTHORIZING NCRTD STAFF TO APPLY FOR FEDERAL, STATE AND LOCAL OPERATIONAL AND CAPITAL FUNDING TO SUPPORT ITS ROUTES AND TRANSIT SERVICES CATEGORIZED AS NON-RURAL IN NATURE

WHEREAS, the NCRTD was created through legislative enactment (NMSA 1978, Section 73-25-1 et seq.); and

WHEREAS, the NCRTD is a sub-division of the State of New Mexico; and

WHEREAS, the NCRTD was approved and certified by the New Mexico Department of Transportation on the 14th day of September 2004;

WHEREAS, the NCRTD wishes to apply Federal, State and Local funding to support its non-rural routes and transit services; and

WHEREAS, the funding may be used for operations, administrative and capital; and

WHEREAS, the NCRTD would work within the existing Section 5307 small urban transit service allocation format as utilized by NMDOT through the MPO-process; and

NOW, THEREFORE, BE IT RESOLVED by the NCRTD Board that Staff is authorized to identify and apply for Federal, State and Local funding to support its operations and capital needs related to its non-rural routes and transit services.

PASSED, APPROVED AND ADOPTED BY THE GOVERNING BODY OF THE NORTH CENTRAL REGIONAL TRANSIT DISTRICT ON THIS 8th DAY OF APRIL, 2016.

Daniel Barrone, Chairman

Approved as to form:

Peter Dwyer, Counsel
Title: Discussion of 255 Mountain Trail Pilot Route and Board Direction on Continuation of Pilot Route and Proposed Modifications

Prepared By: Stacey McGuire, Planning, Projects & Grants Manager

Summary: As the Winter season (schedule operates to mirror Ski Santa Fe ski season) is coming to a close, and the Winter and Spring Break peak weeks brought wonderful crowds, NCRTD Staff would like to engage the Board in a discussion of the 255 Mountain Trail pilot route, noting the soon-to-be-completed winter portion of the pilot and the not yet fulfilled summer portion, and seek Board direction as to the future of the service. This discussion is occurring at this time, so that any direction by the Board can be incorporated into the Fiscal Year 2017 proposed budget.

Background: Throughout the more than three year process to plan and implement the 255 Mountain Trail route pilot project, various stakeholders have been involved, ranging from Santa Fe National Forest, NMDOT, Ski Santa Fe, Rio Metro RTD, Santa Fe County and the City of Santa Fe. Additionally, many interested residents and locals have participated in the process and provided feedback throughout. As we have implemented this service and proactively operated the route, there have been some unanticipated challenges, lessons learned and successes realized.

The vast majority of unanticipated challenges that were faced were relatively small and easily surmountable, while others have proven more challenging. Some of the “bumps in the road” were:

- NMDOT restrictions on fleet usage and a resulting need to buyout an existing Federally funded vehicle;
- Bus manufacturer delivery delays on the leased vehicle and requirement by bus manufacturer for excess insurance coverage;
- Equipping several of the non-Federally funded vehicles with drop chains, ski racks, video monitor, bike racks;
- US Forest Service permitting process and bike transport restrictions and a resulting need for alternate insurance (with additional cost);
- Challenges identifying a new insurance provider able to endorse USFS-required language.

Many lessons have been learned throughout the planning and implementation of the 255 Mountain Trail pilot route. These lessons provide valuable information and have prompted us to discuss
solutions looking forward to the future of the Mountain Trail route if continuation is authorized. Notable learning opportunities, and resulting policy questions, have been:

- Original ridership projections were calculated to be roughly 3% of annual visitors to SFNF for winter (annual visitors to SFNF estimated to be 170,000; ridership projected to be 10,000 one-way winter trips and 2000 non-winter one-way trips). Upon reflection the ridership estimate was at the time considered to be conservative, however it proved to be overly optimistic for a first year pilot route. **How to better project ridership in the future, since snow conditions will impact skier visits and usage of the service?**

- Peak ridership demand focused on holidays and weekends. Staff was able to respond to this peaking impact by staging additional fleet to be available and not leave any riders behind. **How to better schedule and respond to the massive holiday increase in service? How to adjust frequency of trips and time of trips to better meet demand?**

![Total Ridership per Day during Winter Service](image)

- Federal funding designation of the 255 Mountain Trail route as providing service in an urbanized area and not a rural area per the NMDOT, thus shifting its possible Federal funding stream from Section 5311 Rural to Section 5307 Urban formula funding. **What is the best approach to securing said Section 5307 Urban Transit funding for FY19?**

- Public and private partnership funding along with fares was instrumental in the funding of the pilot route for the first year. A similar funding profile will likely be necessary to bridge the program until it is eligible for a federal allocation. **How to fund the service for FY17 and FY18?**

- Fare collection: implications to Federal funding, both rural and urban; farebox loss rate of 3%, cost of updating equipment to include a credit card payment option. **What are the cost and operational implications to this?**

- Rider feedback surveys handed out at South Capitol and Fort Marcy for a 4 week period resulted in 37 completed surveys submitted; approximately 65% of respondents self-identified as residents, while 35% as visitors. Of the general comments received, 10 addressed the affordability of the service, 14 mentioned the safety and convenience of the
service, 6 stated their support for their driver, 3 suggested additional weekend connections to/from Rail Runner, 6 requested additional weekday and weekend trips beyond the current schedule, 1 asked for more information to be available through the hotels and tourism.

- Traffic congestion and parking overcrowding mitigation along NM-475. One vehicle accident occurred, in which there were no injuries and minor vehicle damage (the NCRTD was determined to be not at fault in the accident). **Explore opportunities to collaborate with NMDOT, Law Enforcement, SFNF, Hyde State Park, etc.?**

- US Forest Service and its Special Use Permit process and requirements; SFNF and its position to not allow bike transport via 255 Mountain Trail route. **How to best continue the discussions?**

- Non-winter ridership and the assessment of its viability with minimal operational data. **Should non-winter season continue beyond the pilot? Should non-winter service operate year-round (outside of winter ski season)?**

- **Should winter season portion of the pilot continue beyond this year’s trial?**

<table>
<thead>
<tr>
<th>Average Winter Ridership</th>
<th>Minimum</th>
<th>Maximum</th>
<th>Budgeted Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sun 55.76</td>
<td>19</td>
<td>191</td>
<td>117</td>
</tr>
<tr>
<td>Mon 33</td>
<td>2</td>
<td>229</td>
<td>44</td>
</tr>
<tr>
<td>Tues 36.81</td>
<td>1</td>
<td>163</td>
<td>44</td>
</tr>
<tr>
<td>Wed 34.38</td>
<td>6</td>
<td>156</td>
<td>44</td>
</tr>
<tr>
<td>Thurs 33.94</td>
<td>5</td>
<td>140</td>
<td>44</td>
</tr>
<tr>
<td>Fri 33.29</td>
<td>5</td>
<td>102</td>
<td>44</td>
</tr>
<tr>
<td>Sat 50.18</td>
<td>23</td>
<td>141</td>
<td>117</td>
</tr>
</tbody>
</table>

- This was a great snow and ski year in Santa Fe. **If this service continues, what do we do to mitigate the bad weather risk and associated lower number of visitors?**

- **Bus Stop** sponsorship packages. **Is this a valuable aspect to pursue in the future? If so, what is the best approach?**

- **Can a vehicle purchased with Federal Section 5311 funds be used to operate on a route designated to be urban in nature? In the event that this is not allowed, what other vehicle options exist?**

**Recommended Action:** Based upon many factors including trending route ridership, overwhelming public support for the service and continued involvement of our partners and supporters, Staff recommends that the Board consider the following recommendations for continuation of this pilot route:

- The 255 Mountain Trail route continue with its existing service levels through FY2017 (June 30, 2017) with run/route modifications adjusted as Staff deems necessary; and

- Reevaluate service levels for Winter and Non-Winter seasons upon completion of FY17 service; and

- Ask partners and supporters to continue their financial support of the 255 Mountain Trail route through FY17 and possibly through FY 18 and to return to Board if partner financial support does not meet minimum budgeted revenue requirement; and

- Buy out the remaining value on the leased vehicle as of October 2017 (through fund balance or another funding stream) irrespective of whether the pilot route continues; and

- Apply for Federal Section 5307 Urban Transit formula funding as soon as possible (presumably to be awarded in FY19); and
• Collaborate with NMDOT, SFNF, Local Law Enforcement, Ski Santa Fe and others to improve and develop a Standard Operating Protocol for traffic solutions along NM-475 during peak winter season; and
• Partner with Rio Metro RTD and Rail Runner to improve schedule coordination, in particular on weekends.

Options/Alternatives:
• Board directs Staff to continue operations of the 255 Mountain Trail route similar to existing levels through FY17 with the understanding that public and private partners and supporters must contribute financially for this route to continue; to apply for Federal Section 5307 Urban Transit formula funds through the MPO process; the leased vehicle currently operating on 255 Mountain Trail route is to be purchased outright as of October 2017; and under the recommendations made herein; or
• Do not operate the 255 Mountain Trail route beyond its pilot end on August 31, 2016. No longer seek long-term funding for the route, or pursue any other route planning and implementation.

Fiscal Impact: Annual route costs are estimated to be $120,000 to operate at service levels similar to those during the pilot. (Initial pilot route estimated to cost $162,344, which included some first year, one-time costs that will not be incurred annually moving forward.)

Attachments:
Estimated and Actual Operating Budget of 255 Mountain Trail pilot route
## Estimated and Actual Operating Budget of 255 Mountain Trail Pilot Route

<table>
<thead>
<tr>
<th>Account Code</th>
<th>Account Title</th>
<th>YTD Budget $</th>
<th>YTD Actual thru March 24, 2016</th>
<th>YTD Budget $ Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>4455000</td>
<td>Member Local Match</td>
<td>80,344.00</td>
<td>80,344.00</td>
<td>0.00</td>
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<tr>
<td>4641000</td>
<td>Advertising Sales</td>
<td>12,000.00</td>
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<td>4642000</td>
<td>Insurance Proceeds</td>
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<td>(8,278.73)</td>
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<tr>
<td>4643000</td>
<td>Miscellaneous Revenue</td>
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<td>0.00</td>
<td>0.00</td>
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<tr>
<td>4721000</td>
<td>Fares</td>
<td>55,000.00</td>
<td>22,833.07</td>
<td>32,166.93</td>
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<tr>
<td></td>
<td></td>
<td><strong>162,644.00</strong></td>
<td><strong>133,763.61</strong></td>
<td><strong>27,880.39</strong></td>
</tr>
</tbody>
</table>

- 6110135 Drivers: 76,822.00, 21,035.10, 55,786.90
- 6110185 Driver Overtime: 0.00, 4,788.78, (4,788.78)
- 6110205 FICA: 2,199.00, 1,925.31, 273.69
- 6110210 PERA: 4,355.00, 2,677.81, 1,677.19
- 6110215 Health Insurance: 4,944.00, 2,656.35, 2,287.65
- 6110220 Unemployment Insurance: 0.00, 718.70, (718.70)
- 6110230 Other Fringe Benefits: 0.00, 360.48, (360.48)
- 6110400 Contractual Services: 0.00, 267.50, (267.50)
- 6110410 Advertising: 5,532.00, 11,498.33, (5,966.33)
- 6110415 Advertising-Other: 0.00, 1,015.95, (1,015.95)
- 6110420 Contractual Services - Other: 0.00, 0.00, 0.00
- 6110600 Equipment: 0.00, 1,254.58, (1,254.58)
- 6110605 Equipment Rental: 18,000.00, 8,462.64, 9,537.36
- 6110700 Insurance: 0.00, (44.00), 44.00
- 6110710 General and Employee Liability: 0.00, 853.00, (853.00)
- 6110725 Vehicle Insurance: 2,000.00, 32,250.48, (30,250.48)
- 6110900 Uniforms: 0.00, 606.49, (606.49)
- 6111000 Printing: 0.00, 934.95, (934.95)
- 6111305 Mileage: 0.00, 84.64, (84.64)
- 6111330 Misc Expenses: 0.00, 453.75, (453.75)
- 6111400 Fuel: 18,992.00, 4,630.78, 14,361.22
- 6111410 Shop Supplies: 500.00, 204.71, 295.29
- 6111415 Oil and Lubricants: 1,000.00, 153.61, 846.39
- 6111425 Replacement Parts: 3,000.00, 10,320.03, (7,320.03)
- 6111430 Tires: 2,000.00, 787.09, 1,212.91
- 6111435 Vehicle Maintenance - Repair: 4,000.00, 8,840.80, (4,840.80)
- 6330130 Benches and Signage: 1,000.00, 0.00, 1,000.00
- 6330135 Passenger Bus: 18,000.00, 16,892.45, 1,107.55

|          | Revenues - Expenses      | 0.00         | 1,133.30                       | (1,133.30)           |
|          |                          | **162,344.00** | **133,630.31**               | **28,713.69**       |
Title: Discussion and Re-approval of Award of Bid Construction- ADA-Compliance of Bus Stops

Prepared By: Troy Bingham, Finance Director

Summary: NMDOT has reviewed the award of contract that was authorized at the February 5, 2016 Board Meeting by the NCRTD. It has come to NMDOT’s and NCRTD staff’s attention that the “Best and Final Offer” (BAFO) negotiated prior to the award of the contract did not follow the correct Federal Highway Administration protocol. BAFO practices are a common approach utilized in many other projects including FTA funded projects as a best management practice in order to enhance tax dollar spending. In an effort to still have federal participation on this project the NCRTD will need to follow the correct procedure of award.

First, the Board must approve the full bid from Allied 360 Construction for $149,950 + NM GRT in the amount of $162,789.47

Second, Staff will submit a field change order to the project thru NMDOT at the preconstruction meeting to remove requirements of the project that were included in the initial BAFO, which are mobilization and sign installation for approximately $12,400. Once agreed upon by NMDOT and the contractor the new project cost should be $137,550 + NM GRT for a total of $149,327.72.

The total project budget approved at the February 5, 2016 Board meeting will still remain $195,961 (inclusive of GRT) and should be sufficient to cover additional change orders and project management by our on-call engineer for the project.

Background: NMDOT awarded the NCRTD $165,000 in FFY15 (as well as $87,500 in FFY14 for planning and design) through the Transportation Alternative Program (TAP) to construct ADA-compliant bus stops based on the NCRTD’s recently adopted ADA Transition Plan. The NCRTD is looking to move forward in the construction of ADA-compliant bus stops and facilities. Construction is anticipated to begin April 2016 and be completed by June 30, 2016.
An Invitation for Bids (IFB) was advertised on December 29, 2015 in the Albuquerque Journal, Rio Grande Sun and Dodge Reports, as well as our website. A non-mandatory Pre-bid meeting was held on January 12, 2016 with two attendees. The bid submittal deadline was January 28, 2016 (at 200p). One (1) bid was received.

This was a Re-bid of CN5100972 due to concerns related to state wage rates inclusion in the original IFB, as well as to clarify the NMDOT-required inclusion of all bidding contractors on its “Contractor Prequalification List”. The original IFB was issued October 9, 2015 and had a bid submittal deadline of November 10, 2015.

In September of 2013, the NCRTD Board approved Staff’s request to apply for Federal Fiscal Year 2014 Transportation Alternatives Program (TAP) funding to perform a systemwide bus stop and facilities assessment which will result in a prioritized ADA Transition Plan to be used by the NCRTD to complete the renovations required by FTA to bring all NCRTD bus stops and facilities into ADA compliance. The NCRTD was awarded $87,500 for Phase I Planning and Design in FFY2014 and $165,000 for construction in FFY2015.

Phase I Planning and Design has been executed by Wilson & Company, with Scott Perkins as the Project Manager.

**Recommended Action:**

1. Authorize the Executive Director to re-execute a construction contract with Allied 360 Construction, LLC for $149,950 + NM GRT.
2. Authorize the establishment of a total project budget in the amount of $195,961

Please note, any action taken by the NCRTD Board regarding the Award of Bid Construction-ADA-Compliant Bus Stops is contingent upon NMDOT and FHWA approval of the NCRTD Staff recommended Contractor.

**Options/Alternatives:**

1. Take no action; or
2. Adopt the recommendations, (recommended); or
3. Not adopt the recommendations and provide further direction to Staff.

**Fiscal Impact:** To not approve Staff’s recommendation of re-awarding the Contractor for the ADA-Compliant Bus Stop construction in FFY15, could jeopardize current and future TAP funding.

**Attachments:**

- Invitation For Bids (IFB)
- IFB Required Documents for Bid Submittal for Construction of ADA-Compliant Bus Stops
- Submitted Bid from Allied 360 Construction, LLC for Construction of ADA-Compliant Bus Stops
- Bid Summary
INVITATION FOR BID

North Central Regional Transit District
Rio Arriba County, New Mexico
December 22, 2015

INVITATION FOR BID

North Central Regional Transit District (NCRTD) is soliciting bids for the construction of nine (9) ADA-compliant bus stops along Riverside Drive in Española, Rio Arriba County, New Mexico (Project). Sealed bids will be received until January 28, 2016, at 2:00 pm (local prevailing time), and can be submitted in person or by mail to the North Central Regional Transit District Finance Department at 1327 N Riverside Dr, Española, NM 87532, Attention: Mr. Troy Bingham, Finance Director. Bids received after this time will not be accepted. Bids will be opened and read aloud at the same location. The Project scope consists of the following work:

To provide all labor, supervision, equipment, tools, materials, and incidentals required to construct the nine (9) ADA-compliant NCRTD bus stops, including but not limited to the construction of bus stop infrastructure such as concrete pad work, sidewalk transition work and bus stop area backfill; installation of bus stop facilities; traffic and safety controls; and associated site improvements. All equipment, materials and installation work shall comply with all local, state, and federal rules and regulations.

Beginning on December 30, 2015, Bid Documents may be purchased online at Dodge Reports (Dodge Reports) for a fee. Bid Documents can also be purchased for $100.00 each set (non-refundable) from: Wilson & Company, Inc., Engineers and Architects, 4900 Lang Ave NE, Albuquerque, New Mexico, 87109. Checks should be made payable to Wilson & Company. Only complete sets of Bid Documents will be issued. If required, Bid Documents can be shipped via regular mail. Documents are non-returnable and all charges for documents and mailing expenses are non-refundable.

Bid documents consisting of Contract Book and Construction Plans may be obtained at the following locations:

- Dodge Reports: http://construction.com/
- Wilson & Company, Inc., Engineers and Architects, 4900 Lang Ave NE, Albuquerque, New Mexico, 87109
- North Central Regional Transit District: ncrtd.org

All questions about the meaning or intent of the Bidding Documents are to be submitted in writing to NCRTD, Attn: Troy Bingham (troyb@ncrtd.org). Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda posted on ncrtd.org or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than seven (7) days prior to the date for opening of Bids may not be
answered. Only questions answered by Addenda as posted on ncrtd.org will be binding. Oral and other interpretations or clarifications will be without legal effect.

To qualify, all bids shall be submitted using the Bid Form furnished, a copy of which is bound in the Contract Book; incomplete or segregated bids will not be accepted.

Bids must be accompanied by a bid bond as specified in the Instructions for Bidders. A pre-bid conference will be held and bidders are encouraged to attend. The pre-bid conference will be held at 10:00 AM at the NCRTD Administrative Offices at 1327 N Riverside Dr, Española, NM 87532. Qualifications of bidders will be required as detailed in the Instructions for Bidders. Construction shall comply with the requirements contained in the New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction 2014 Edition.

This bid will be awarded to the lowest responsive and responsible bidder as dictated by NCRTD Procurement Office.

Anticipated project timeline:

Tuesday December 29, 2015- Invitation For Bid Requested
Tuesday January 12, 2016, 10:00 AM Pre-bid Meeting (non-mandatory) at NCRTD
Thursday January 28, 2016, 2:00 PM Sealed Bid Opening
Tuesday February 2, 2016- NCRTD Board Approval of Contract Award

Contractor and NCRTD agree to work together to identify a date for Notice to Proceed (dependent on weather constraints), anticipated to begin around March 1, 2016

The Project is to be completed by June 30, 2016
North Central Regional Transit District

1327 N Riverside Dr
Española, NM 87532

REQUIRED DOCUMENTS FOR BID SUBMITTAL

CN/Project No.: 5100972
County: Rio Arriba County
Termini: Transit Stops – ADA Transition Plan Riverside Dr., Española, NM
INDEX

1. Index
2. Bid Form
3. Performance Bond
4. Payment Bond
5. Bid Schedule
6. Agreement Between Owner and Contractor
7. Bidder’s List of Quoters for DBE Program
8. Bid Bond
9. DBE Goal Form A-585
10. Non-Debarment Certification
11. Pay Equity Reporting Acknowledgement
12. Subcontractors Fair Practices Act Compliance
13. ADA Construction Inspection Procedure
14. Notice to Contractors – Cooperation with Utilities
15. Notice to Contractors – Approved Products List
16. Notice to Contractors – Civil Rights Obligations
17. Notice to Contractors – Gross Receipts Tax
18. Notice to Contractors – New Mexico Employees Health Coverage
20. Notice to Contractors – Professional Services
22. Notice to Contractors – Return of Contract Documents
23. Notice to Contractors – Specialty Items
24. Subcontractor List/Wage Rates
25. Notice to Contractors – Submittal Inclusion, Chief Engineer, Notice to Proceed, No Cost Changes, Testing Requirements
BID FORM

North Central Regional Transit District
1327 N. Riverside Drive
Española, New Mexico 87532

I/We hereby propose to construct in accordance with CN#5100972 general terms, conditions and specifications.
Discrepancies in the multiplication of units of work and the unit prices will be resolved in favor of the correct multiplication of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

NMDOT Contractor Pre-Qualification: Yes ☐ No ☐

My/Our price(s) is as follows:

Bid Price $__________________

BIDDER: ________________________ TELEPHONE: (____) ______________
ADDRESS: ________________________________

BIDDER’S DEPARTMENT OF WORKFORCE SOLUTIONS REGISTRATION No. ______________________

*BIDDER’S LICENSE No. ______________________, *LICENSE CLASSIFICATION(S) ______________________

* Not Required for Bidding on Federally funded Projects

The Bidder proposes to construct this NCRTD Project at the prices quoted in the Bid Schedule and in accordance with the Contract. The Contract includes the Advertisement, Bid Form, Bid Schedule, Contract Bond, Standard Specifications, Supplemental Specifications, Addenda, Notice to Contractors, Plans, Standard Drawings, Notice to Proceed, Change Orders and agreements that are required to complete the construction of the Work in an Acceptable manner, including authorized extensions thereof, all of which constitute one instrument. The contents of the Contract are incorporated by reference herein.

The submission of a Bid with shall be considered the Bidder’s certification that it is exercised Pre-Bid Due Diligence and shall be considered prima facie evidence that the Bidder accepts the conditions to be encountered in performing the Work and accepts the provisions and requirements of the Contract. Pre-Bid Due Diligence is the Bidder’s exercise of due diligence before submittal of a Bid which includes the careful, independent examination of the site of the proposed Work, including Material pits and haul Roads, the Bid Package, all Contract documents including Standard Specifications, Special Provisions, Supplemental Specifications, and Standard Drawings and boring logs which representative of the condition at the precise location where each boring was made but conditions may vary between boring locations.

Contract Time is in the Advertisement. The Bidder shall commence Work within the timeframe specified in the Notice to Proceed, when issued, incorporated herein by reference.

Overcharges resulting from antitrust violations are borne by the NCRTD. Through the submission of the Bid, the Bidder certifies that the Bidder is duly authorized to assign, sell, convey, and transfer to the NCRTD all right, title and interest to all claims and causes of action the Bidder has or may acquire under state or federal antitrust laws provided that the claims or causes of action are related to the goods, Material or services that are the subject of this Contract and to the extent that the same are passed on to the NCRTD. Additionally, the Bidder certifies that it will require all its Subcontractors at all tiers to assign all federal and state antitrust claims and causes of action as described in this paragraph to the NCRTD. The provisions of this paragraph shall become effective at the time the NCRTD executes this Contract without further acknowledgement from the Bidder of the Bidder’s Subcontractors at all tiers.
PERFORMANCE BOND

CONTRACTOR (name and address): SURETY (name and address of principal place of business):

OWNER (name and address):

CONSTRUCTION CONTRACT

Effective Date of the Agreement:
Amount:
Description (name and location):

BOND

Bond Number:
Date (not earlier than the Effective Date of the Agreement of the Construction Contract):
Amount:
Modifications to this Bond Form: □ None □ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

(seal)
Contractor’s Name and Corporate Seal

By: ___________________________ (Signature)

Print Name and Address for Notices

Title

Attest: ___________________________ (Signature)

Title

SURETY

(seal)
Surety’s Name and Corporate Seal

By: ___________________________ (Signature (attach power of attorney))

Print Name and Address for Notices

Title

Attest: ___________________________ (Signature)

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.
1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

   3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

   3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

   3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

   5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

   5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

   5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

   5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

   5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

   7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

   7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

   7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than...
the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

This agreement, and the rights hereunder, may not be assigned without the consent of the Owner. Owner agrees that consent shall not be unreasonably withheld and owner agrees that it will grant said consent in the event that Surety is acquired, merges, has a change of control or is sold by operation of law and consent shall be granted to an entity which succeeds to its business provided that Surety still is located in United States of America and continues to agree to perform the obligations under this agreement without reservation.

The Contractor shall promptly and at the Contractor’s expense defend, indemnify, and hold harmless the Owner against any legal expense incurred to hold the Contractor responsible for the work performed and promised in this agreement to the full extent permitted by law.
PAYMENT BOND

CONTRACTOR (name and address):

SURETY (name and address of principal place of business):

OWNER (name and address):

CONSTRUCTION CONTRACT
  Effective Date of the Agreement:
  Amount:
  Description (name and location):

BOND
  Bond Number:
  Date (not earlier than the Effective Date of the Agreement of the Construction Contract):
  Amount:
  Modifications to this Bond Form:   □  None   □  See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

(seal)
Contractor's Name and Corporate Seal

By: _____________________________
    Signature

SURETY

(seal)
Surety's Name and Corporate Seal

By: _____________________________
    Signature (attach power of attorney)

Print Name and Address for Notices: ____________________________

Title

Attest: __________________________
    Signature

Title

Attest: __________________________
    Signature

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.
1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.

4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.

5. The Surety's obligations to a Claimant under this Bond shall arise after the following:

5.1 Claimants who do not have a direct contract with the Contractor,

5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and

5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).

5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).

6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.

7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

7.2 Pay or arrange for payment of any undisputed amounts.

7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.

11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or claims, however accomplished, shall be sufficient compliance as of the date received.

14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. Where so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

16. Definitions

16.1 Claim: A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of “labor, materials, or equipment” that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor’s subcontractors, and all other items for which a mechanic’s lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

This agreement, and the rights hereunder, may not be assigned without the consent of the Owner. Such consent shall not be necessary in the context of an acquisition of Surety or Surety company, by asset sale, merger, change of control or operation of law or provided that consent is given for an assignment to a party to an entity which succeeds to its business provided that Surety still is located in United States of America.

This agreement, and the rights hereunder, may not be assigned without the consent of the Owner. Owner agrees that consent shall not be unreasonably withheld and owner agrees that it will grant said consent in the event that Surety is acquired.
merges, has a change of control or is sold by operation of law
and consent shall be granted to an entity which succeeds to its
business provided that Surety still is located in United States of
America and continues to agree to perform the obligations
under this agreement without reservation.

The Contractor shall promptly and at the Contractor’s expense
defend, indemnify, and hold harmless the Owner against any
legal expense incurred to hold the Contractor responsible for
the work performed and promised in this agreement to the full
extent permitted by law.
<table>
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<tr>
<th>ITEM NO.</th>
<th>ITEM DESCRIPTION</th>
<th>ESTIMATED QUANTITY</th>
<th>UNIT</th>
<th>UNIT PRICE</th>
<th>BID AMOUNT</th>
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<td>LIN. FT.</td>
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**TOTAL AMOUNT BID**

(NOT INCLUDING NMGRT)
AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between North Central Regional Transit District ("Owner") and
______________________________________________ ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Transit Stops – ADA Transition Plan - Riverside Dr Espanola, New Mexico

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Wilson and Company Inc., Engineers and Architects.

3.02 North Central Region Transit District has retained Wilson and Company Inc., Engineers and Architects ("Engineer") to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Contract Times: Dates

A. The Work will be substantially completed on or before June 30, 2016, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before ______.

4.03 Liquidated Damages

A. Contractor and North Central Region Transit District recognize that time is of the essence as stated in Paragraph 4.01 above and that North Central Region Transit District will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by North Central Region Transit District if the Work is not completed on time. Accordingly, instead of requiring any such proof, North Central Region Transit District and Contractor agree that as liquidated damages for delay (but not as a penalty):

EJCDC® C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price). Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved. Page 1 of 8
1. Substantial Completion: Contractor shall pay North Central Region Transit District $800 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.

2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay North Central Region Transit District $800 for each day that expires after such time until the Work is completed and ready for final payment.

3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. Contractor will complete the attached Bid Form. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

B. Total Unit Price Work (subject to final Unit Price adjustment) $__________.

C. For all Work, at the prices stated in Contractor’s Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor’s Applications for Payment on or about the ______ day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments
previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract

a. _____ percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to _____ percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less _____ percent of Engineer’s estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS

7.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.

F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies,
or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to ___, inclusive).

2. Performance bond (pages __ to ___, inclusive).

3. Payment bond (pages __ to ___, inclusive).

4. Other bonds.
   a. ___ (pages __ to ___, inclusive).

5. General Conditions (pages __ to ___, inclusive).

6. Supplementary Conditions (pages __ to ___, inclusive).

7. Specifications as listed in the table of contents of the Project Manual.

8. Drawings (not attached but incorporated by reference) consisting of ___ sheets with each sheet bearing the following general title: ___ [or] the Drawings listed on the attached sheet index.

9. Addenda (numbers ___ to ___, inclusive).

10. Exhibits to this Agreement (enumerated as follows):
    a. Contractor's Bid (pages __ to ___, inclusive).

11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
    a. Notice to Proceed.
    b. Work Change Directives.
    c. Change Orders.
    d. Field Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.
D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 9 – MISCELLANEOUS

9.01 Terms

A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 Assignment of Contract

A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.03 Successors and Assigns

A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 Severability

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.05 Contractor’s Certifications

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;

2. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

9.06 Other Provisions

A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

B. Notwithstanding anything to the Contrary in the various contract documents incorporated by reference into this agreement, the NCRTD including the documents listed in section 8.01 of the agreement and the General Notes included as a part of the project plans, the following provisions of the NCRTD procurement code shall supersede any contract provisions to the contrary.

1. (a) Contract clauses. All the District contracts for goods, service or construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Agent, after consultation with the District's Legal Counsel, may issue clauses appropriate for goods, service or construction contracts, addressing among others the following subjects:

(1) The unilateral right of the District to order, in writing, changes in the work within the scope of the contract;

(2) The unilateral right of the District to order, in writing, temporary stoppage of the work or delaying performance that does not alter the scope of the contract;

(3) Variations occurring between estimated quantities or work in contract and actual quantities;

(4) Defective pricing;

(5) Liquidated damages;

(6) Specified excuses for delay or nonperformance;

(7) Termination of the contract for default;

(8) Termination of the contract in whole or in part for the convenience of the District;

(9) Suspension of work on a construction project ordered by the District;

(10) Site conditions differing from those indicated in the contract or ordinarily encountered, except that a differing site conditions clause need not be included in a contract when:

a. The contract is negotiated;

b. The contractor provides the site or design; or

c. The parties have otherwise agreed with respect to the risk of differing site conditions.
(11) Insurance.

(b) Price adjustments. Adjustments in price resulting from the use of contract clauses by Subsection (a) of this section shall be computed in one or more of the following ways:

(1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(2) By unit prices specified in the contract or subsequently agreed upon;

(3) By the costs attributable to the events or situations under such clauses with adjustments of profit or fee, all as specified in the contracts or subsequently agreed upon;

(4) In such other manner as the contracting parties may mutually agree upon;

(5) In the absence of agreement by the parties, a unilateral determination by the District of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the District, as accounted for in accordance with generally accepted cost accounting principles and subject to the provisions of Article VII of this Chapter.

(6) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 16.

(c) Standard clauses and their modification. The Purchasing Agent, after consultation with the District’s Legal Counsel, may establish standard contract clauses for use in the District contracts. If the Purchasing Agent establishes any standard clauses addressing the subjects set forth in subsection (a) of this Section, such clauses may be varied, provided that any variations are supported by a written determination stating the circumstances justifying such variations.

(d) Advance payment clause permitted. Advance payment may be permitted when, in consultation with the District’s Legal Counsel, the Purchasing Agent authorizes a contract under Section 3 (b) 4 Procurement of goods, services, or construction items under existing contract, and such prior contract relied upon contains an advance payment clause.
IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on ___________ (which is the Effective Date of the Contract).

OWNER:

__________________________________________________________________________

By: _______________________________________________________________________

Title: _____________________________________________________________________

Attest: ____________________________________________________________________

Title: _____________________________________________________________________

Address for giving notices:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

CONTRACTOR:

__________________________________________________________________________

By: _______________________________________________________________________

Title: _____________________________________________________________________

Attest: ____________________________________________________________________

Title: _____________________________________________________________________

Address for giving notices:

__________________________________________________________________________

__________________________________________________________________________

__________________________________________________________________________

License No.: _____________________________________________________________

(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.
New Mexico Department of Transportation ("NMDOT")
Bidder's List of Quoters for the Disadvantaged Business Enterprise ("DBE") Program

Control Number ("CN"): 5100972

BIDDER: _______________________________ TELEPHONE: ( ) _______________________________
ADDRESS: _______________________________

The NMDOT establishes the New Mexico DBE goal using the mechanism of a Bidder's list per 49 C.F.R. § 26.45 (2014). The Bidder's list shall contain all quotes, from both DBE and non-DBE quoters, received by the Bidder and shall be submitted with the Bid. The term "quoter" shall include Subcontractors and Suppliers.

Failure of the Bidder to comply with this Bidder's List of Quoters shall render the Bid non-responsive and the Bid shall be rejected.

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<tr>
<th>Name of Contractor, Subcontractor or Supplier</th>
<th>Address</th>
<th>DBE</th>
<th>Non-DBE</th>
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BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (Name and Address):

SURETY (Name, and Address of Principal Place of Business):

OWNER (Name and Address):

BID
Bid Due Date:
Description (Project Name—Include Location):

BOND
Bond Number:
Date:
Penal sum $ ________________
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER
Bidder’s Name and Corporate Seal
By: ________________________________
Signature
Print Name ________________________________
Title
Attest: ________________________________
Signature
Title

SURETY
Surety’s Name and Corporate Seal
By: ________________________________
Signature (Attach Power of Attorney)
Print Name ________________________________
Title
Attest: ________________________________
Signature
Title

Note: Addresses are to be used for giving any required notice.
Provide execution by any additional parties, such as joint venturers, if necessary.
1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.

3. This obligation shall be null and void if:

   3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or

   3.2 All Bids are rejected by Owner, or

   3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.
For this Project the DBE participation goal is in the Advertisement. If the Bidder can meet the DBE goal it shall complete this form and submit the same before Bid Opening. If the Bidder is unable to meet the goal it shall submit evidence of its good faith efforts taken to meet the goal by 4:30 PM, local prevailing time, seven (7) Days after Bid Opening per 49 C.F.R. § 26.53 (b)(3) (2014).

Good faith efforts require that the Bidder show that it took all necessary and reasonable steps to achieve this Project's DBE goal. The necessary and reasonable steps are expected, by their scope, intensity, and appropriateness to the objective of meeting this Project's DBE goal, to obtain sufficient DBE participation. Good faith efforts include, but are not limited to, those described in the Federal Requirements Notice to Contractors and 49 C.F.R. Pt. 26, Appendix A (2014).

If the NCRTD determines that the Bidder has failed to make good faith efforts to meet the DBE goal the Bidder is entitled to seek administrative reconsideration per 49 C.F.R. § 26.53 (d).

<table>
<thead>
<tr>
<th>Name of Certified DBE Contractor, Subcontractor or Supplier</th>
<th>Address</th>
<th>NAICS Code for DBE</th>
<th>Item No.(s) of Work Description</th>
<th>Proposed Amount (round to nearest dollar)</th>
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Bidders shall use certified DBEs contained in the DBE directory required by 49 C.F.R. § 26.81(g) (2011). Bidders shall confirm that the DBE is certified at the following link:

https://nmdot.dbesystem.com/FrontEnd/VendorSearchPublic.asp?TN=nmdot&XID=5347

Failure to comply with the requirements of the DBE Goal Form A-585 shall render the Bid non-responsive and the Bid shall be rejected.
New Mexico Department of Transportation ("NMDOT")
Non-Debarment Certification

Control Number ("CN"): 5100972

BIDDER: ________________________________ TELEPHONE: (   )_____________________
ADDRESS: ________________________________________________________________

The Federal Highway Administration suspends or debars contractors to protect taxpayer dollars and the NMDOT is required to Award Contracts to responsible Bidders. The submission of the Bid is the Bidder's certification that neither it nor its principals are presently suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Project by any federal department or agency. The Bidder further agrees that if it is the lowest Responsible Bidder and awarded the Contract then it shall comply with the following:

1. The Contractor shall verify through the SAM.gov website at https://www.sam.gov/portal/SAM/#!/11 that its Subcontractor(s), at any tier(s), is not presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Project. The result of this verification shall be provided in the NMDOT's permission to subcontract request form number A - 1086 and A - 1087; and

2. If circumstances change to render this certification inaccurate then the Contractor shall provide the changed circumstances immediately in writing to the Project Manager.

If the Contractor knowingly makes a false certification the NMDOT may take any available actions under the Contract.

Failure to acknowledge the terms and conditions above shall render the Bid non-responsive and the Bid shall be rejected.

I acknowledge
New Mexico Department of Transportation ("NMDOT")
Pay Equity Reporting Acknowledgement
New Mexico Executive Order 2009-049

Control Number ("CN"): 5100972

BIDDER: ___________________ TELEPHONE: ( ) ______________________
ADDRESS: ______________________________

Pre-Award

The State of New Mexico requires the lowest Responsible Bidder to, in order to contract with Executive Branch Agencies, including the NMDOT, comply with Executive Order 2009-049. To comply with the Executive Order, after receipt of the notice of preliminary award of contract, the lowest Responsible Bidder shall submit per the notice of preliminary award of contract either Form PE10-249 or PE250 depending on its number of employees at the time it receives the notice of preliminary award of contract.

Failure of the lowest Responsible Bidder to comply with this Pay Equity Reporting Acknowledgement may constitute just cause for cancellation of the Award and the forfeiture of the Bid Guaranty.

Exemptions exist regarding compliance with the Executive Order. The Executive Order and required forms can be obtained from the following link:

http://www.generalservices.state.nm.us/stockpurchasing/pay_equity.aspx

Post-Award

If Contract Time extends beyond one (1) year from the date in the Notice to Proceed, then within ten days of the annual anniversary date of the Notice to Proceed, the Contractor shall submit to the Project Manager an updated form PE 10-249 or PE250 depending on the number of employees it has at that time.

If at the expiration of Contract Time, more than 180 Days has elapsed since submittal of the last PE 10-249 or PE250, the Contractor shall submit to the Project Manager an updated form PE 10-249 or PE250.

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and has ten or more employees or eight (8) employees in the same job classification then the Contractor shall submit to the Project Manager the PE 10-249 or PE250. The Contractor shall submit the appropriate form with the permission to subcontract package forms A-1086 or A-1087.

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and during the performance of this Work grows to have ten or more employees or eight (8) employees in the same job classification then the Contractor shall immediately submit form PE 10-249 or PE250.

Subsequent form PE 10-249 or PE250 submittals, by the Contractor for its Subcontractors, at any tier, shall be due yearly on the anniversary date of the Project Manager's approval of the permission to subcontract package.

Failure of the Contractor to comply with this Pay Equity Reporting Acknowledgement shall result in the NMDOT exercising its remedies under the Contract.

I acknowledge
New Mexico Department of Transportation ("NMDOT")
Subcontractors Fair Practices Act Compliance

Control Number ("CN"): 5100972

BIDDER: ___________________________ TELEPHONE: ( ) ________________________________
ADDRESS: _______________________________________________________________________


The Subcontractors Fair Practices Act prevents Contractors from bid shopping and bid peddling. The Subcontractors Fair Practices Act requires that Subcontractor quotes received for specific Bid Item Work shall be listed when the quote exceeds the listing threshold identified herein.

For this Project, quotes for street lighting and traffic signals that exceed the listing threshold in the Advertisement shall be listed.

Only one Subcontractor shall be listed below for each Bid Item.

The listing requirements do not apply if the Contractor:

1) Receives no quotes for the Bid Item Work and the Contractor states the same below; or

2) Receives only one quote for the Bid Item Work, the Contractor states the name of the sole quoter below and the designation of sole quoter below only occurs one time.

<table>
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<tr>
<th>Bid Item(s)</th>
<th>Subcontractor (and if sole quoter designation as sole quoter)</th>
<th>Address</th>
<th>Quote Amount</th>
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Failure to list a Subcontractor quote, that no quotes were received, or that a sole quote was received for the Bid Items that exceed the listing threshold is the Contractor’s representation that it is qualified and shall self perform the Bid Item Work itself.

Substitutions of listed Subcontractors with other listed Subcontractors or with non-listed Subcontractors are allowed only per Section 13-4-36 and is conditioned upon the written consent of the NMDOT before the substitution occurs.

Failure of the Contractor to comply with the requirements herein shall be grounds for NMDOT's exercising its contractual remedies and the assessment of penalties per Section 13-4-41.
NOTICE TO CONTRACTORS

ADA Construction Inspection Procedure

CN 5100972

General Comments

NMDOT is recognized as a Title II public entity under the Americans with Disabilities Act of 1990 (Public Law 101-336) (the “ADA”). The ADA provides protections to individuals with disabilities that are at least equal to those provided by the nondiscrimination provisions of title V of the Rehabilitation Act of 1973. The ADA extends the prohibition of discrimination in federally assisted programs, established by section 504 of the Rehabilitation Act, to all activities of State and local government, irrespective of the funding source for the program. As a Title II entity NMDOT must comply with the ADA to make public facilities accessible so as to prohibit discrimination against any “qualified individual with a disability”

Meeting ADA compliance is an ongoing NMDOT obligation, which requires commitment and diligence on multiple levels from project planning through construction of a public right-of-way (PROW) facility.

For this project, to ensure ADA compliance is met, the Contractor shall implement the NMDOT ADA Construction Inspection Policy and Procedure. This Work shall be considered incidental to the completion of the Project and no additional payment shall be made. Failure to comply with this Notice to Contractors may be deemed a Noncompliance in accordance with Specification Section 101.4 “Terms and Definitions” and subject the Contractor to Specification Section 108.9 “Default of Contract”.

ADA Construction Compliance Requirement:

All constructed ADA facilities meet the Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG), July 26, 2011, which may be accessed through the State Construction Bureau webpage (http://dot.state.nm.us/en/Construction.html).

Construction Inspection Procedure

The ADA Curb Ramp Documentation forms attached to this Notice to Contractors will be used for the inspection process and NMDOT Acceptance of all curb ramps within the Project to ensure compliance with both PROWAG guidelines and NMDOT construction Plan design. The ADA Curb Ramp documentation forms and this procedure will be discussed at the mandatory Pre-Bid Meeting, if one is held, and the Pre-Construction Conference.

Procedure: The following procedure describes the use of the NMDOT ADA Curb Ramp Documentation form and the inspection process.
1) The Contractor must provide notice to the Project Manager in accordance with Standards Specification 105.10 "Inspection of Work".
   - Only a 24 inch electronic digital ("Smart") level with 0.1% slope accuracy shall be permitted for ADA construction and inspection Acceptance.
   - The Contractor and the NMDOT shall calibrate each Smart level prior to performing the next step.
   - The Contractor and NMDOT shall select which curb ramp form best aligns with the type to be inspected.
   - Before scheduling delivery of concrete, the Contractor and NMDOT shall complete the Pre-Pour Inspection Form verifying that the concrete formwork is constructed to dimensions and grades shown on plans and meets PROWAG, 2011 technical design criteria and NMDOT Construction Plans.
   - The NMDOT inspector will verify measurements on the Pre-Pour Form meet the requirements or require correction of all discrepancies in accordance with Standard Specification 105.11 “Removal of Unacceptable and Unauthorized Work”, before scheduling of concrete to ensure the finished concrete Work will meet PROWAG and NMDOT Construction Plans.
   - When all measurements meet the Contract requirements then the NMDOT inspector will permit the concrete pour.
   - Repeat the procedure using the Constructed Inspection Form after the concrete pour to ensure the curb ramp(s) meets PROWAG compliance and NMDOT Construction Plan design criteria.
   - The NMDOT inspector will verify measurements on the Constructed Inspection Form for Acceptance of the Work. Unacceptable Work will be subject to Standard Specification 105.11 “Removal of Unacceptable and Unauthorized Work”.

The Contractor shall prepare the final documentation to include all applicable field measurements documented on the ADA Curb Ramp Documentation inspection forms; the acceptance by the inspector; and a minimum of two (2) pictures of the constructed curb ramp(s). The Contractor shall submit the completed forms to the NMDOT Project Manager, before the next Progress Payment.

The Contractor shall protect and maintain the constructed ADA facilities until such time that Final Acceptance of the ADA facility occurs. Final Acceptance occurs in accordance with Standards Specification section 109.10 “Project Closure”. 
ADA Curb Ramp Documentation
Type: Median - Area of Refuge

Detachable warning surfaces shall consist of truncated cones perpendicular to the path of travel. The surface must be the full width of curb ramp, 3' or less from the back of curb, and 2' deep.

Vertical Surface Discontinuities

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be located with a slope not steeper than 50%. The bend shall be applied across the entire vertical surface discontinuity.

COMMENTS:
ADA Curb Ramp Documentation
Type: Mid-Block Parallel

Pre-Pour Inspection

INSPECTOR SIGNATURE
PRINT NAME
CONTRACTOR
CONTRACTOR SIGNATURE:

NCGOT PROJECT #
NCGOT DISTRICT #
CURB RAMP #

STA OFFSET
CORNER:

NCGOT INSPECTOR INITIAL
CONTRACTOR INITIAL

DATE
DATE

"FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT."

ADA Curb Ramp Documentation
Type: Mid-Block Parallel

Constructed Inspection

INSPECTOR SIGNATURE
PRINT NAME
CONTRACTOR
CONTRACTOR SIGNATURE:

NCGOT PROJECT #
NCGOT DISTRICT #
CURB RAMP #

STA OFFSET
CORNER:

NCGOT INSPECTOR INITIAL
CONTRACTOR INITIAL

DATE
DATE

"FINAL ACCEPTANCE OF CURB RAMP DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT."
ADA Curb Ramp Documentation
Type: Mid-Block Parallel

NORTH

Where the turning space is constrained at the
back-of-curb, the turning space shall be
4' max by 5' min. The 5' dimension shall be
provided in the direction of the ramp run. If the
turning space is constrained on two or more sides,
the turning space shall be 5' long.

Running Slope - shall be 0.33 maximum
but shall not require the ramp length to
exceed 10'. To avoid changing grade
irregularly when connecting to steep
grades, the running slope shall be
intended to fall at maximum extent
practicable.

Detectable Warning Surfaces shall
consist of textured domed pavement
in the path of travel. The surface
shall be the full width of curb ramp,
5' or less from the back of curb, and
1' max.

Clear Space/Gutter Counter Slopes - if the
crossing is mid-block or a crossing without
paved or slip control, the access steps may
match the grade of the road.

Vertical Surface Discontinuities

SCALE: 1/64" = 1'

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and
0.5" shall be treated with a slip resistant texture.

COMMENTS:
Vertical Surface Discontinuities

Vertical surface discontinuities shall be 0.5" minimum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 5%. The bevel shall be applied across the entire vertical surface discontinuity.
ADA Curb Ramp Documentation

Type: Parallel (Diagonal)

Pre-Pour inspection

NORTH

Curb Ramp ID example: Ramp NE-5 is on the northeast corner of the intersection with the observer standing on the ramp facing south.

STREET NAME

INSPECTOR SIGNATURE
PRINT NAME
CONTRACTOR
CONTRACTOR SIGNATURE

301

Curb Ramp ID example: Ramp NE-5 is on the northeast corner of the intersection with the observer standing on the ramp facing south.

STREET NAME

INSPECTOR SIGNATURE
PRINT NAME
CONTRACTOR
CONTRACTOR SIGNATURE

"FINAL ACCEPTANCE OF CURB RAMPS DOES NOT OCCUR UNTIL THE FINAL INSPECTION OF THE PROJECT"
ADA Curb Ramp Documentation
Type: Parallel (Diagonal)

NORTH

Running Steps - shall be 0.5% maximum but shall not require the ramp length to exceed 15'. To avoid creating grade discontinuity when connecting to slope grades, the running slope shall be extended as flat as practical.

Grade Break

Where the turning space is constrained at the back-of-border, the turning space shall be 4' wide by 5' deep. The 5' dimension shall be provided in the direction of the ramp run. If the turning space is constrained on two or more sides the turning space shall be 5' long.

Detectable Turning Surfaces shall consist of truncated domes perpendicular to the path of travel. The surface must be the full width of curb ramp, 5' or less from the back of curb, and 2" deep.

Door Space/Gate Counter Stips - if the crossing is well-blocked or a crossing without yield or stop control, the cross strips may match the grade of the road.

Vertical Surface Discontinuities

SCALE: N 1:5

1/4 MAX

1/4 MAX

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be treated with a slope not steeper than 50%. The bond shall be applied across the entire vertical surface discontinuity.
ADA Curb Ramp Documentation
Type: Perpendicular - Detached Walk

NORTH

Where the turning space is constrained at the back of sidewalk, the turning space shall be 3' min by 5' min.
The 5' dimension shall be provided in the direction of the ramp run, if the turning space is constrained on two
or more sides the turning space shall be 5'/ramp.

Running Slope - shall be 8.3% maximum but shall not require the ramp length to exceed 60. To avoid crossing grade
difficulty when connecting to steep grades, the running slopes shall be extended as flat as maximum
ease practical.

Grade Break - any surface slabs that
create at these breaks must be flush.

Floor sides - 10% rise
measured parallel to curb line.

Corner Saucer/Slinger Counter Slope - if the crossing
is mid-block or a crossing without yield or stop
control, the cross slope may match the grade of the road.

Vertical Surface Discontinuities

SCALE = 1/4" = 1'-0"

1/4" Max

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.35", and
0.5" shall be treated with a slope not steeper than 50%. This level shall be applied across the
entire vertical surface discontinuity.

COMMENTS:
Where the turning space is constrained at the back of sidewalk, the turning space shall be 6 in by 9 in. The 9 in. dimension shall be provided in the direction of the ramp run. If the turning space is constrained on two or more sides, the turning space shall be 3' long.

Running Slope — shall be 8.3% — maximum but shall not require the ramp length to exceed 15'.

To avoid climbing grades indefinitely when connecting to steep grades, the running slope shall be extended at not as maximum extent practicable.

Grade Brain — Grade Brain must be perpendicular to the direction of travel / ramp run.

Clear Space / Sidewalk Clearing — If the crossing is mid-block or a crossing without yield or stop control, the cross slopes may match the grade of the road. The clear space is the area beyond the 1/4' grade break.

Vertical Surface Discontinuities

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be handled with a slope not steeper than 50%. The slope shall be applied across the entire vertical surface discontinuity.
ADA Curb Ramp Documentation
Type: Perpendicular (Diagonal)

- Where the turning space is required at the bend on sidewalk, the turning space shall be 4 ft by 8 ft. The 8 ft dimension shall be provided in the direction of the ramp run. If the turning space is constrained on two or more sides, the turning space shall be 5' x 8'.

- Running slope - shall be 8.3% maximum but shall not require the ramp length to exceed 15'.
- To avoid shearing grade instability when crossing a steep grade, the running slope shall be extended as far as permitted on the extent practicable.
- Flared sides - 10% max measured profile to curb line.

- Selective Warning Surfaces shall consist of inlaid or cast-in-place concrete perpendicular to the path of travel. The surface must be the full width of curb name. Surf lines shall be 1' from the back of curb, and 3' deep.
- Clear Space / Gutter Counter Space - if the crossing is multi-block or a crossing without yield or stop control, the cross slope may match the grade at the end. The Clear Space is the area beyond the bottom grade break.

Vertical Surface Discontinuities

- Vertical surface discontinuities shall be 0.5" minimum. Vertical discontinuities between 0.25" and 0.5" shall be blended with a slope not steeper than 35%. The blend shall be applied across the entire vertical surface discontinuity.
ADA Curb Ramp Documentation
Type: Perpendicular (Directional)

Where the turning space is conditioned at the back of sidewalk, the turning space shall be 4' wide by 3' max. The 3' dimension shall be provided in the direction of the ramp run. If the turning space is conditioned on two or more sides, the turning space shall be 3' wide.

Detectable Warning Surfaces shall consist of truncated domes perpendicular to the path of travel. This surface shall be the full width of curb ramp. Star legs from the back of curb and 2' deep.

Running Slope - shall be 3.3% maximum but shall not require the ramp length to exceed 17'. To avoid shearing stress inactivity when connecting to slope grades, the running slope must be extended or cut to minimum extent practicable.

Clear Space/Safety Counter Slope - if the crossing is 18"-24" or a crossing without yield or stop control the cross slope may extend the grade at the road.

Vertical Surface Discontinuities

Vertical surface discontinuities shall be 0.5" minimum. Vertical discontinuities between 0.25" and 0.5" shall be beveled with a slope not steeper than 50:1. The bevel shall be applied across the entire vertical surface discontinuity.

COMMENTS:
**Vertical Surface Discontinuities**

**SCALE:** 1" = 15'  

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.125" and 0.5" shall be leveled with a slope not steeper than 50%. The band shall be applied across the entire vertical surface discontinuity.

**Type: Perpendicular (Radial)**

- Where the turning space is contained at the back of a curb, the turning space shall be 4' max by 5' min. The 5' dimension shall be provided in the direction of the ramp run. If the turning space is contained on two or more sides the turning space shall be 5' long.

- Running Slope - shall be 8.3% maximum but shall not require the ramp length to exceed 15'. To avoid chattering grate installation when connecting to steep grades, the running slope must be detailed as flat as maximum extent practicable.

- Detachable Ramping Surfaces shall consist of bonded concrete perpendicular to the path of travel. This surface must be the full width of curb ramp, 3' in front of the back of curb, and 2' deep.
ADA Curb Ramp Documentation
Type: Perpendicular

NORTH

Vertical Surface Discontinuities
SCALE 1/8" = 1'-0"

Vertical surface discontinuities shall be 0.5" maximum. Vertical discontinuities between 0.25" and 0.5" shall be treated with a slope not steeper than 50:1. The bend shall be applied across the entire vertical surface discontinuity.

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NOTICE TO CONTRACTORS

Cooperation with Utilities

CN 5100972

For construction purposes this Notice to Contractors ("NTC") does not supersede or alter the obligations in the 2014 Edition of the New Mexico Department of Transportation ("NMDOT") Standard Specifications for Highway and Bridge Construction, ("Standard Specifications") Section 105.6 - "Cooperation with Utilities". This Project’s Work affects utilities. The NMDOT may or may not own the utilities that are within the Project limits. Therefore the Contractor shall coordinate with both the NMDOT and the respective utility identified in this NTC. Failure by the Contractor to comply with this NTC and the Contract may result in delays to the Project and may result in Non-Conformances. This coordination and associated Work shall be considered incidental to the completion of the Project and no separate measurement or payment will be made.

The Contractor shall preserve line location markings or provide an offset mark before obliterating a locate mark. Restrictions exist regarding the use of emergency line locates. An emergency is defined as an excavation that must be performed due to circumstances beyond the control of the Contractor and that affects public health, safety or welfare. Emergency locate request shall not be used to circumvent poor job planning or economic consequences.

NMDOT Owned Facility Infrastructure

If a Contractor’s or Subcontractor’s activities at any tier, destroys, obliterates, covers or in any way alters utility markings put in place by the NMDOT, the Contractor on behalf of the NMDOT as directed by the Project Manager or by a third party on behalf of the NMDOT, the Contractor shall ensure that those line markings are reestablished before the Contractor begins Work or a Subcontractor at any tier begins Work in the affected area. The Contractor shall either re-mark the utility alignments or provide offset markings to the utility alignment that clearly define the utility alignment. The Contractor shall both photo document the utility markings in their construction area prior to disturbing those markings and photo document the remarked utility alignment or the offset markings to ensure accuracy to the original markings. Photos will clearly identify distances and/or recognizable features needed to ensure re-marks or offset marks are accurate.

If the Contractor or Subcontractor at any tier fails to accurately reestablish previously placed line markings and damage occurs to any NMDOT owned facility infrastructure the Contractor shall be responsible for all associated repair costs and no additional Contract Time will be granted for repairs. If any NMDOT owned facility is damaged, the Contractor shall bear the cost of repair to the satisfaction of the NMDOT. NMDOT incurred costs related to damage to NMDOT owned facility infrastructure may be recovered from the Contractor by Progress Payment offset or the Contractor’s Project performance bond. All damaged infrastructure will be repaired as an emergency repair (within 24-hours), and shall be in accordance with the Standard Specifications.
Cooperation with Utilities
Page 2 of 2

Non-NMDOT Owned Utility Infrastructure

Utilities shown on the Plans, which will not be relocated, shall require the Contractor to take the necessary precautions to protect the utility from damage caused by the Work. If any such utility is damaged, the Contractor shall bear the cost of repair to the satisfaction of the utility owner. The Contractor shall be responsible for all associated repair costs and no additional Contract Time will be granted for repairs.

Utility Relocation

Utility facilities known to be within the Project limits, their Work locations, approximate time frames for relocation and/or installation are listed in the table below. Utilities detailed below, shall require the Contractor to take the necessary precautions to protect the utility from damage caused by the Work. If any such utility is damaged, the Contractor shall bear the cost of repair to the satisfaction of the utility owner. The Contractor shall be responsible for all associated repair costs and no additional Contract Time will be granted for repairs.

Table

All timeframes listed below are reflected in Days. The Contractor shall include the approximate timeframes listed in the table below as an activity in the Baseline Schedule and all Schedule updates so that the NMDOT can readily identify the Work and measure the progress of the same.
NOTICE TO CONTRACTORS

UTILITY OWNER INFORMATION

WORK DESCRIPTION

Attached are the all of the Utility Owners. This project has no known impacts to these utilities. Attached is a list of owners and contact information.

<table>
<thead>
<tr>
<th>Utility Owner</th>
<th>Contact and Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Española, NM</td>
<td>405 North Paseo de Oñate</td>
</tr>
<tr>
<td>Public Works</td>
<td>Español, NM 87532</td>
</tr>
<tr>
<td></td>
<td>Contact: Larry Valdez</td>
</tr>
<tr>
<td></td>
<td>P.O. Box 128</td>
</tr>
<tr>
<td>Electric Cooperative, Inc.</td>
<td>Español, NM 87532</td>
</tr>
<tr>
<td></td>
<td>Contact: Virgil L. Coriz</td>
</tr>
<tr>
<td>New Mexico Gas Company</td>
<td>340 Paseo de Oñate</td>
</tr>
<tr>
<td></td>
<td>Español, NM 87532</td>
</tr>
<tr>
<td></td>
<td>Contact: Frank Aragon</td>
</tr>
<tr>
<td>Windstream Communications</td>
<td>2000 North Riverside Dr.</td>
</tr>
<tr>
<td></td>
<td>Español, NM 87532</td>
</tr>
<tr>
<td></td>
<td>Contact: Joe Lucero</td>
</tr>
</tbody>
</table>
NOTICE TO CONTRACTORS

Approved Products List

Products used on New Mexico Department of Transportation ("NMDOT") Projects must be approved by the NMDOT's product evaluation program and listed on the NMDOT's approved products list ("APL").

The Bidder's Bid Item Unit Price for the Project shall be deemed to rely on the use of the products listed on the APL. The Contractor shall comply with all APL procedures required by the hyperlink below:

http://dot.state.nm.us/en/APL.html

As used in this Notice to Contractors, "product" means any manufactured item, material, traffic operational device or other feature used in the maintenance or construction of a NMDOT Project. All products must meet requirements in accordance with the 2014 Edition of the NMDOT's Standard Specifications for Highway and Bridge Construction.

Approval to use a non-APL product will not be granted by the Project Manager. If a non-APL product is used the Contractor shall remove any non-APL product. Removal and replacement will be made at the sole expense of the Contractor if a non-APL Product is used. Any disruption to the Project schedule related to the Contractor's use of a non-APL Product is solely the Contractor's responsibility and no additional Contract Time will be granted.

Products defined in NMDOT Administrative Directive ("AD") 206, 4.08 (a-g) are not required to be on the APL. The product evaluation engineer makes the determination on which products meet the criteria in AD 206 4.08 (a-g).

Products not on the APL and not exempted by AD 206 4.08 (a-g) will be evaluated consistent with the processes described in the above hyperlink.
NOTICE TO CONTRACTORS

Civil Rights Obligations

I. TITLE VI
II. DISADVANTAGED BUSINESS ENTERPRISE (DBE)
III. SUBCONTRACTOR PROMPT PAYMENT PROVISIONS - CLARIFICATION OF GOOD CAUSE AND PROHIBITION OF CROSS-PROJECT OFFSET
IV. REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS AND SUPPLEMENTS (FHWA-1273)
V. SUPPLEMENTAL EEO REQUIREMENTS
VI. INDIAN PREFERENCE
VII. NMDOT ON THE JOB TRAINING (OJT) PROGRAM
VIII. WAGE RATES
IX. LABOR REPORTING AND SUBMISSION OF WEEKLY PAYROLLS
X. TITLE VI ASSURANCES APPENDIX A AND APPENDIX E

Any reference made to the New Mexico Department of Transportation ("NMDOT") web page can be accessed through the following link: http://dot.state.nm.us/en.html.

I. TITLE VI

The NMDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The NMDOT’s Title VI Assurances, Appendix A and E and are included in Section X. at the end of this NTC.

For further information, contact the Title VI coordinator for the NMDOT by accessing the web page listed above.

II. DISADVANTAGED BUSINESS ENTERPRISE ("DBE")

In accordance with 49 CFR 26.13 (b), the Contract NMDOT signs with the Contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: "The contractor, subcontractor or subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding of monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible."
Terms and Definitions (pursuant to 49 CFR 26.5)

Terms and Definitions are incorporated by reference to 49 CFR 26.5 or the New Mexico State Department of Transportation Standards Specifications for Highway and Bridge Contract.

Pre Award Procedures

For all Projects, the Contractor’s Bidder’s List of Quoters (Form BL-DBE) in the Bid package is required to be submitted at the time of bid for award of Contract. Failure to comply with this requirement shall render a bid as non-responsive and the bid shall be rejected.

For Projects with DBE Goals (race-conscious measures)), the following DBE forms are required to be submitted for Award of Contract:

a) All Bidders will complete and sign Form A-585 and submit it with the Bid. All DBE firms listed on Form A-585 must be listed on the NMDOT DBE Directory before the date of submission. The Directory is available on the NMDOT web page referenced in this NTC, the web page can be accessed through the following link: https://nmdot.dbesystem.com/FE/EndVendorSearchPublic.asp?TN=nmdot&XID=4599. Each DBE firm’s NAICS Code may be found in the DBE Directory. The information required by Form A-585 DBE A-1 and form A-585 DBE A-2 must be complete and accurate in every detail and in final form at the time it is submitted to the NMDOT for approval. This form will be evaluated prior to the award of the Contract. Failure to submit either document in proper form and accuracy will render the Bid or proposal non-responsive.

b) All Bidders will complete and notarize Form A-644 for each listed Subcontractor, Supplier and/or manufacturer on the submitted Form A-585 within seven (7) Days after the Bid opening. The information required by Form A-644 must be complete and accurate in every detail and in final form at the time it is submitted to the NMDOT for approval.

In the event the successful Bidder is a certified DBE Contractor. The Bidder shall list itself and any other DBE subcontractor on Form A-585.

In the event the Bidder cannot meet the established DBE Goal. The Bidder shall submit evidence of its good faith efforts taken to meet the goal. These good faith efforts must be submitted within seven (7) Days after the Bid Opening.

These forms shall be submitted in a manner as provided on the Form. Failure to timely submit the form(s), meet the goal or demonstrate good faith efforts will render the Bid non-responsive and the Bid shall be rejected.

The Contract will be awarded to the lowest qualified and responsible Bidder who gives written assurance to meet the established DBE Contract goal or who can satisfactorily demonstrate good faith efforts why it cannot do so.
The following is a list of types of actions, which the NMDOT will consider as part of the Bidder's or offeror's good faith efforts to obtain DBE participation. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive, as other factors or types of efforts may be relevant in appropriate cases. This demonstration should include, but not be limited to, the following:

a.) 1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at the pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of the Notice of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the NMDOT DBE directory of firms that specialize in the areas or work desired and which are located in the area or surrounding areas of the project.

2) The bidder should solicit this interest as early in the acquisition process as possible as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

b.) Selecting portions of the Work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out Contract Work items into economically feasible units to facilitate DBE participation, even when the prime Contractor or prime consultant might otherwise prefer to perform these Work items with its own forces.

c.) Providing interested DBEs with adequate information about the construction plans, construction specifications, design scope of Work and requirements of the Contract in a timely manner to assist them in responding to a solicitation.

d.) 1) Negotiating in good faith with interested DBEs. It is the Bidder's or offeror's responsibility to make a portion of the Work available to DBE Subcontractors, subconsultants and Suppliers and to select those portions of the Work or material needs consistent with the available DBE Subcontractors, subconsultants and Suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses and telephone numbers of DBEs that were considered, a description of the information provided regarding the construction plans and specifications for the Work selected for subcontracting or requirements and design scope of Work of the AFP and subconsulting; and evidence as to why additional agreements could not be reached for DBEs to perform the Work.

2) A Bidder or offeror using good business judgment would consider a number of factors in negotiating with Subcontractors including DBE Subcontractors, and would take a firm's price and capabilities as well as Contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a Bidder's or offeror's failure to meet the Contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of the prime Contractor or consultant to perform the Work of a Contract with its own organization does not relieve the Bidder or offeror of the responsibility
to make good faith efforts. Prime Contractors are not, however, required to accept higher quotes from DBEs, if the price difference is excessive or unreasonable.

e.) 1) Prime Contractors and consultants will not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's or consultant's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Bids or proposals in the Contractor's or design consultant's efforts to meet the Project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for Work was not the lowest received. However, nothing in this paragraph will be construed to require the bidder or prime Contractor to accept unreasonable quotes to satisfy contract goals.

2) A prime Contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the Contractor has the ability and/or desire to perform the contract the Work with its own forces does not relieve the Contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

f.) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient, Contractor or consultant.

g.) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

h.) Effectively using the services of available minority/women community organizations; minority/women Contractor's groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

In determining whether a Bidder has made good faith efforts, the NMDOT must take into account the performance of other Bidders in meeting the Contract. For example, when the apparent successful Bidder fails to meet the Contract goal, but others meet it, the NMDOT may reasonably raise the question of whether with additional reasonable efforts; the apparent successful Bidder could have met the goal. If the apparent successful Bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the NMDOT may view this, in conjunction with other factors, as evidence of the apparent successful Bidder having made GFEs. NMDOT requires the Contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the Bidder when a non-DBE subcontractor was selected over a DBE for Work on the Contract to review whether DBE prices were substantially high; and contact the DBEs listed on a Contractor's solicitation to inquire as to whether DBE prices were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

A promise to use DBEs after Contract award is not considered to be responsive to the Contract solicitation or to constitute good faith efforts.
When the NMDOT determines that the Bidder has failed to meet the GFE requirements, the NMDOT will, provide the Bidder notice and the opportunity for administrative reconsideration before awarding the Contract. Failure to timely request reconsideration shall result in the determination that the Bid is non-responsive and shall be rejected. Within seven (7) Days of a timely request for reconsideration the NMDOT shall conduct a hearing on the matter.

As part of this reconsideration, NMDOT shall follow Standard Specifications Section 103.3 "Bidding Disputes and Resolution Procedures".

Counting DBE Participation Toward Goals

This section in no way alters the obligations in Standard Specification 108.1 “Subcontracting” and is only used to determine DBE participation levels for each Bidder. The Contractor must still comply with 108.1 and perform with its own forces at least 40% of the Work based on the Total Bid Amount.

NMDOT shall verify Bidders commitment to meeting or exceeding the established DBE goal in accordance with 49 CFR part 26.55 and as referenced in the NMDOT DBE Program Manual. Only the value of the Work actually performed by the DBE will be credited towards DBE Project goals. DBE participation shall be credited as follows:

1) Count the entire amount of that portion of a construction contract that is performed by the DBE’s own forces. Include the cost of supplies and materials obtained by the DBE of the Work of the contract, including supplies purchased or equipment leased by the DBE. Supplies and equipment purchased or leased by Contractor shall not be counted toward the DBE goal.

2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required of the performance of a NMDOT Contract, toward DBE goals, provided NMDOT determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3) When a DBE subcontracts part of the Work of its Contract to another firm, the value of the subcontracted Work may be counted toward DBE goals only if the DBE’s subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

4) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the Contract equal to the distinct, clearly defined portion of the Work of the Contract that the DBE performs with own forces toward DBE goals.

NMDOT shall verify performance during the course of the Project and count expenditures to a DBE Contractor toward DBE goals only if the DBE is performing a Commercially Useful Function (“CUF”) on that Contract.

A DBE performs a CUF when it is responsible for execution of the Work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the Work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable)
and paying for the material itself. To determine whether a DBE is performing a CUF, an evaluation by the NMDOT, will be made of the amount of Work subcontracted, industry practices, whether the amount the firm is to be paid under the Contract is commensurate with the Work it is actually performing and the DBE credit claimed for its performance of the Work and other relevant factors.

A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, Contract, or Project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, an examination of similar transactions, particularly those in which DBEs do not participate will be performed by the NMDOT.

If a DBE Contractor or Subcontractor does not perform or exercise responsibility for at least 30% of the total cost of its Contract with its own forces, or the DBE subcontracts a greater portion of the Work of a Contract than would be expected on the basis of normal industry practice for the type of Work involved, it will be presumed that the DBE is not performing a CUF.

When a DBE is presumed not to be performing a CUF as provided above, the DBE may present evidence to rebut this presumption. It may be determined that the firm is performing a commercially useful function given the type of Work involved and normal industry practices.

Decisions concerning CUF matters are not administratively appealable to USDOT.

**DBE Trucking**

Per the Standard Specifications 2014 Edition states 108.1 states, "A Trucker is not a Subcontractor unless the Contractor is using the Trucker to meet the DBE requirement associated with the project."

The following factors shall be used to determine whether a DBE trucking subcontractors are performing a commercially useful function:

1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks.
with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.

Example: DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks equipped with drivers from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example: DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

7) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

The following factors shall be used to determine how to count expenditures with DBEs for materials or supplies toward DBE goals:

1) If the materials or suppliers are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward the DBE goal. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the Specifications.

2) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals. A DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the Specifications and required under the Contract are bought, kept in stock and regularly sold or leased to the public in the usual course of business. The DBE firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

A DBE firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business. If DBE firm both owns and operates distribution equipment for the products. Any supplementing of regular
dealers' own distribution equipment shall be by a long-term lease agreement and not on ad hoc or contract-by-contract basis.

Packagers, brokers, manufacturers' representatives, or other person who arrange or expedite transactions are not regular dealers.

3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees and commissions charges for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials and supplies required on a job site, toward DBE goals, provided you determined the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. The cost of the materials or supplies themselves is not creditable toward DBE goals.

Credit for Work performed shall not be counted toward the DBE project goal until the amount committed has been paid to the DBE firm.

Termination/Substitution/Replacement of DBE Firms for Projects Having a DBE goal (Race Conscious Measures)

The Contractor shall use the DBE firms listed on Form A-585A to perform specific Work identified. The prime contractor shall not terminate a DBE subcontractor listed on Form A-585A (or an approved substitute DBE firm) without the prior written consent of NMDOT. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, or with a non-DBE firm, or with a substitute DBE firm. Unless NMDOT consent is provided, the Contractor shall not be entitled to any payment for Work or materials unless it is performed by the listed DBE.

NMDOT will provide written consent to the termination request only if NMDOT agrees, for reasons stated in its concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1) The listed DBE subcontractor fails or refuses to execute a written contract;

2) The listed DBE subcontractor fails or refuses to perform the work consistent with normal industry standards, provided, however, that good cause does not exist if the failure or refusal to perform results from the bad faith or discriminatory action of the prime contractor;

3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;

4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension or debarment proceedings pursuant to 26 CFR Parts 180, 215 or 1200 or applicable state law;

6) The listed DBE subcontractor is not a responsible contractor;
7) The listed DBE subcontractor voluntarily withdraws from the project and provides to NMDOT written notice of its withdrawal;

8) The listed DBE subcontractor is ineligible to receive DBE credit for the type of work required;

9) A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the project; or

10) Other documented good cause that NMDOT determines compels the termination of the DBE subcontractor. Provided that good cause does not exist if the prime contractor seeks to terminate a DBE it relied on to obtain the contract so that the prime contractor can self-perform the work for which the DBE subcontractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

The prime contractor shall, before transmitting to NMDOT its request to terminate or substitute a DBE subcontractor, give notice in writing to the DBE subcontractor, with a copy to NMDOT, of its intent to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE subcontractor 5 Days to respond to the prime contractor’s notice and advise the prime contractor and NMDOT of the reasons, if any, why it objects to the proposed termination of its subcontract and why NMDOT should not approve the prime contractor’s request.

As soon as possible, after receipt and review of the DBE subcontractor’s response, or after the expiration of the 5 Day response period, NMDOT shall provide a written response to the prime contractor’s request. NMDOT may seek additional information as necessary to formulate its response. NMDOT’s decision is not appealable to USDOT.

If termination of the DBE subcontractor does not result in a DBE contract goal shortfall, NMDOT strongly encourages the prime contractor to make good faith efforts to subcontract with a substitute DBE firm which can perform the same type of work on the project as the terminated DBE firm or to subcontract with a replacement DBE firm which can perform other types of work remaining on the project.

If termination of the DBE subcontractor results in a DBE contract goal shortfall, the prime contractor shall either:

1) Make good faith efforts to obtain sufficient DBE participation to meet the contract goal by subcontracting with a substitute DBE firm which can perform the same type of work on the project as the terminated DBE firm; or

2) Make good faith efforts to obtain sufficient DBE participation to meet the contract goal by subcontracting with a replacement DBE firm which can perform other types of work remaining on the project.

The prime contractor shall document its good faith efforts to find another certified DBE subcontractor to substitute for or replace the terminated DBE firm. (Refer to 49 CFR Appendix A to Part 26 for guidance in determining the adequacy of good faith efforts.)
The prime contractor shall, in writing, request approval from NMDOT to utilize a substitute or replacement DBE firm to meet the contract goal. In its request, the prime contractor shall detail the work items to be performed and the estimated dollar amount to be subcontracted.

As soon as possible, after receipt and review of the prime contractor’s request, NMDOT shall provide a written response to the prime contractor. NMDOT may seek additional information as necessary to formulate its response. NMDOT’s decision is not appealable to USDOT.

If the prime contractor is unable to secure a substitute or replacement DBE subcontractor to perform the work to meet the contract goal, the prime contractor shall immediately notify NMDOT in writing, and request to be relieved of meeting the contract goal. The prime contractor shall include with this request a justification, including the documented good faith efforts made to find another certified DBE firm.

As soon as possible, after receipt and review of the prime contractor’s request, NMDOT shall provide a written response to the prime contractor. NMDOT may seek additional information as necessary to formulate its response. NMDOT may allow a DBE contract goal waiver, adjust the DBE goal, or assess construction contract liquidated damages or design contract liquidated damages as may be appropriate, depending on the individual project’s overall circumstances. NMDOT’s decision to waive or adjust the contract goal is not appealable to USDOT.

Failure of the Contractor carry out the requirements of the above is a material breach of Contract and may result in the termination of the Contract or such other remedies set forth in this NTC if the Contractor fails to comply with these requirements.

Record Keeping Requirements

The Contractor shall keep such records as necessary to ensure compliance with its DBE utilization obligations, in accordance with Standard Specification Section 107.28 “Contractor Records”.

Compliance Procedures

The Contractor is solely responsible and obligated to ensure DBE compliance at all tiers until the final payment is made in accordance with Standard Specification Section 109.10 “Project Closure”. Additionally, the Contractor shall take any necessary corrective measure necessary to fully comply with this NTC.

Whenever NMDOT believes the construction contractor or any subcontractor or supplier on a USDOT-assisted contract may not be operating in compliance with the terms, conditions or requirements of this DBE Program, NMDOT will conduct an investigation. If it is found that the construction contractor or any subcontractor or supplier is not in compliance with the DBE Program, NMDOT will notify the non-compliant party in writing. NMDOT may conduct a compliance conference with the non-compliant party or parties to discuss the area(s) of non-compliance. In the event that the non-compliant party or parties fails or refuses to perform in compliance with the DBE Program or the Selected DBE Program Provisions, NMDOT will send the non-compliant party or parties a “Notice of Non-Compliance”. If the non-compliant party or parties corrects the deficiencies, NMDOT will rescind the “Notice of Non-Compliance” and notify the party or parties. If the deficiencies are not corrected, NMDOT will initiate administrative action against the non-compliant party or parties, which may include but not be limited to:
1) Termination of the contract.

2) Withhold monthly progress payments.

3) Initiation of appropriate suspension or debarment or decertification proceedings.

4) Referral of any unlawful actions to the appropriate enforcement agencies.

5) Other actions as appropriate, at the discretion of NMDOT.

III. SUBCONTRACTOR PROMPT PAYMENT PROVISIONS

To ensure that all obligations to promptly pay Subcontractors are met Contractors shall pay all Subcontractors, Suppliers and Fabricators their respective subcontract amount by electronic transfer, if available, for NMDOT undisputed Acceptable Work within the timeframes specified in the Standard Specification Section 108.1 “Subcontracting”.

The Contractor is solely responsible and obligated to ensure prompt payment obligations and compliance reporting through all tiers until the final payment is made in accordance with Standard Specification Section 109.10 “Project Closure”. Contractors at all tiers shall be required to submit payment information, as provided for in the B2GNow supporting software system, indicating when payments are made to any Subcontractor, Supplier and or Fabricator, regardless of DBE status. The Department may recognize supporting documentation of such payment(s) in one or more of the following forms:

1) Proof of the timely deposit of funds into the Subcontractor, Supplier and or Fabricator bank account;

2) Proof of hand delivery of timely payment to the Subcontractor, Supplier and or Fabricator; or

3) Proof of mailing payment to the Subcontractor, Supplier and or Fabricator postmarked no less than three (3) Days prior to the expiration of the ten (10) Day prompt payment period.

The Contractor's prompt payment obligation is triggered when the Subcontractor's, Supplier's and or Fabricator's Work is satisfactorily completed when the associated Pay Item has been accepted by NMDOT. If the NMDOT makes an incremental Acceptance of a portion of the Work, the Work of a Subcontractor, Supplier and or Fabricator is covered by that Acceptance is deemed to be satisfactorily completed, triggering the Contractor's obligation to promptly pay for that portion of the Work.

A Contractor will be required to fully document any alleged disputes with its Subcontractors, Suppliers and or Fabricators. The Contractor shall ensure that all situations in which regularly scheduled payments are not made to Subcontractors, suppliers and or Fabricators are reported to the NMDOT.

A Contractor must demonstrate good cause to NMDOT for any failure to full or partially provide prompt payment.
Good cause recognized by the Department to excuse a failure to promptly pay, is a claim concerning the Subcontractor's or Supplier's Work, failure to provide certified payrolls, and other required project documentation. The amount withheld cannot exceed the amount in dispute between the Contractor and Subcontractor or Supplier. Within a Project, the Contractor may only withhold a Subcontractor's or Supplier's payment for Work Accepted by the NMDOT upon proof of a claim between the Contractor and Subcontractor for the Work as issue. The Contractor has the burden of proof to support the Contractor's assertion of good cause and must submit verifiable explanation and proof of the claim between the parties to the Project Manager.

The Contractor is further advised that due to federal highway administration (FHWA) interpretations of 49 CFR Part 26, concerning prompt payment obligations to Subcontractors and Suppliers:

1) The NMDOT will not Accept cross-Project offsets as "good cause" excusing untimely payment for Accepted Work.

The Contractor's Contract with Subcontractors or Suppliers SHALL NOT contain any provision that allows the Contractor to withhold payment from the Subcontractor or Supplier as a result of the Subcontractor's or Supplier's performance on separate Contract(s). Any such provision will be without effect, and SHALL NOT provide good cause excusing a failure to make prompt payment.

This Notice does not alter the sole discretion of the NMDOT to make good cause determinations concerning Contractor prompt payment matters.

2) The NMDOT will require Contractor's to pay all retainage owed to the Subcontractor or Supplier within 30 days of the progress payment indicating Acceptance of the Work. The Contractor may request Partial Acceptance in accordance with Standard Specifications 105.18.1 "Partial Acceptance" upon satisfactory completion of the entire Subcontractor's Work.

IV. REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS AND SUPPLEMENTS

FHWA-1273 – Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Government-wide Suspension and Debarment Requirements

XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION
The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

   a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all terms and conditions of employment and in their review of activities under the contract.

   b. The contractor will accept as its operating policy the following statement:

   "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

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2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor’s staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor’s EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

   a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor’s EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

   b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor’s EEO obligations within thirty days following their reporting for duty with the contractor.

   c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor’s procedures for locating and hiring minorities and women.

   d. Notices and posters setting forth the contractor’s EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

   e. The contractor’s EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: “An Equal Opportunity Employer.” All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

   a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

   b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor’s compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.
c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.
7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.
10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT’s U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor’s obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor’s control, where the facilities are segregated. The term
"facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 formal and FHWA program requirements.

1. Minimum wages

   a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

   Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided; That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

   b.
(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable
standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form W-
347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347intr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.
The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. **Certification of eligibility.**

   a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

   b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).


V. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.
3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out
the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more — as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epsl.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participating in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or
commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded
from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epis.gov), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion–Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.
2. The contractor shall place a job order with the State Employment Service indicating:

(a) the classifications of the laborers, mechanics and other employees required to perform the contract work,

(b) the number of employees required in each classification,

(c) the date on which the participant estimates such employees will be required, and

(d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor’s permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

V. SUPPLEMENTAL EEO REQUIREMENTS

Incorporated in this Contract are three (3) supplemental requirements on Equal Employment Opportunity ("EEO"). These are as follows:

(1) Specific EEO Responsibilities (23 USC 140 and 23 CFR 230);
(2) Notice of Requirements for Affirmative Action to Ensure EEO (Executive Order 11246);

1) Specific EEO Responsibilities (23 USC 140 and 23 CFR 230)

The Contractor shall Work with the Federal Government and the NMDOT in carrying out EEO obligations and in their review of the Contractor activities under this NTC or the Contract.
The Contractor and all Subcontractors at all lower tiers holding subcontracts not including material Suppliers, of $10,000 or more, shall comply with the following minimum requirements of EEO. The EEO requirements of Executive Order 11246 as amended, as set forth in Volume 6, Chapter 4, Section 1, Subsection 1 of the Federal-Aid Highway Program Manual, are applicable to material Suppliers as well as Contractors and Subcontractors. The Contractor shall include these requirements in every subcontract of $10,000 or more with such modification of language as is necessary to make them binding on the Subcontractor.

2) Notice of Requirement for Affirmative Action to Ensure EEO (Executive Order 11246)

This NTC shall be applicable in all Bids on all Federal-Aid construction Contracts or subcontracts in excess of $10,000.

The goals and timetables for minority and female participation are measured according to the Standard Metropolitan Statistical Area (SMSA) and expressed in percentage terms for the Contractor's aggregate workforce in each trade on all Work in the geographical area.

As used in this NTC the "geographical area" means the area described in the Invitation for Bid for this Contract and are as follows:

Goals for female participation in each trade:

6.9%

Goals for minority participation for each trade:

38.3% - (SMSA Counties: Bernalillo and Sandoval)

45.9% - (Non SMSA Counties: Catron Colfax, De Baca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Valencia and Cibola.)

49% - (Non SMSA Counties: Chaves, Dona Ana, Eddy, Grant, Hidalgo, Luna, Otero and Sierra.)

19.5%  - (Non SMSA Counties: Lea and Roosevelt.)

11% - (Non SMSA Counties: Curry, Harding, Quay and Union.)

Whether the Contract is Federal or federally assisted, the goals are applicable to all the Contractor's Work performed in the counties listed above. If the Contractor performs construction Work in two (2) counties, then the goals established for the county where the Work is actually performed shall apply.

The Contractor shall comply with Executive Order 11246 and the regulations in 41 CFR Part 60-4 et seq. The hours of minority and female employment and training by Project must be substantially uniform throughout the length of the Contract, and in each trade, and the Contractor shall make a GFE to employ minorities and women. The transfer of minority or female employees or trainees from Contractor to Contractor or from Project to Project for the sole purpose of meeting the Contractor's goals shall be a
vi. INDIAN PREFERENCE

The Contractor, or its Subcontractor at any tier, may without violating 41 C.F.R. § 60-1.5 (a) (7), extend a publically announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. The word “near” includes all areas where a person seeking employment could reasonably expected to commute in the course of a work day. Contractors or Subcontractors, at any tier, shall not discriminate among Indians on the basis of religion, sex, tribal affiliation, and the use of such a preference shall not excuse compliance with the remaining EEO provisions of this NTC.

If the Contractor extends an Indian preference, then this NTC requires that Contractors shall afford preference to initial hiring, reassignment, transfer, competitive promotion, reappointment, reinstatement, or any personnel action to fill a vacant position to qualified and enrolled members of federally recognized Indian tribe. The Contractor shall establish a liaison with local tribe employment offices and provide this individual's name and contact information to the Project Manager at the Pre-Construction Conference per Standard Specification Section 108.2 “Notice to Proceed and Pre-Construction Conference”. The tribe’s employment office may then assist the Contractor in identifying qualified and tribally enrolled individuals. Verification of available, qualified and enrolled individuals will be provided to the Contractor by the tribe’s employment office.

This Contract preference requirement is an expansion of the provisions of the equal employment opportunity responsibilities for Contractors contained elsewhere in this NTC and the provisions contained under FHWA-1273.

vii. NMDOT ON THE JOB TRAINING (OJT) PROGRAM

I. PROGRAM DESCRIPTION

A. Purpose
The New Mexico Department of Transportation (NMDOT) created its On the Job Training Program and Special Provision (OJT Program) to fulfill the Training Special Provision requirements of federal-aid construction contracts included in 23 CFR 230, Appendix B to Subpart A. The purpose of the OJT Program is to address the underrepresentation of minority and female workers in the construction trades through the assignment of OJT goals. To that end, the primary objective of the OJT Program is the training and upgrading of minorities and females to journeyman status on NMDOT federal-aid contracts.

B. Program Summary

The OJT Program fulfills its objective by:

1) fostering long-term relationships between contractors and trainees;

2) encouraging contractors to assist trainees in fully attaining journeyman status, and;

3) offering contractors abundant flexibility in fulfilling their training obligations. The OJT Program assigns contractors an annual training goal based on past dollar amounts awarded to the contractor as an NMDOT federal-aid prime contractor.

Contractors may assign eligible trainees that are enrolled in an approved training program, as outlined in Section II A, to any construction project on which the contractor is a prime, including non-NMDOT projects. Contractors may also assign trainees to be trained by subcontractors on any project, so long as the prime contractor retains the primary responsibility for fulfilling its federal-aid training requirements.

Contractors shall make every effort to meet their OJT Program goals by enrolling minority and female trainees (i.e. by conducting systematic and direct recruitment through public and private sources likely to yield minority and female trainees) to the extent that such persons are available within a reasonable area of recruitment. When a contractor cannot meet its annual training goal with minorities and females, it is responsible for demonstrating its Good Faith Efforts taken to meet the goal. Examples of what actions constitute Good Faith Efforts are set forth in Section III below. NMDOT will make compliance determinations regarding the OJT Program based upon either attainment of the annual goal or the Good Faith Efforts to meet it.

No employee shall be employed as an apprentice or trainee in any classification in which he or she has successfully completed a training course leading to journeyman status or in which he or she has been employed as a journeyman. The contractor shall satisfy this requirement by including appropriate questions in the employment application or by other suitable means. Regardless of the method used, the contractor’s records shall document the findings in each case. Such records shall be available for inspection by authorized representatives of NMDOT and the Federal Highway Administration (FHWA).

The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the approved training program being utilized. When a specific ratio is not provided, the ratio of apprentices and trainees to journeymen expected to be on the contractor’s work force during normal operations shall, pursuant to 23 CFR 230.111(c)(10), fall between 1:10 and 1:4.

C. Annual Training Goal
The NMDOT Office of Equal Opportunity Programs will notify contractors assigned an annual training goal prior to the beginning of the calendar year (January 1 to December 31) within which they must participate. Contractors are assigned an annual training goal based on the dollar amount awarded to the contractor as an NMDOT federal-aid prime contractor during the previous state fiscal year (July 1 through June 30). More specifically, each contractor cumulatively awarded ten million dollars or more as a prime contractor on NMDOT federal-aid projects during the previous state fiscal year is assigned and shall commit to train, certify and advance one trainee to journeyman worker status during and before the expiration of the calendar year. The trainee must begin training during the calendar year within which the contractor must participate and trainee time cannot “roll-over” from one calendar year to another for purposes of meeting the annual goal.

While NMDOT strongly encourages contractors to independently provide on-the-job training on their projects, only those contractors who have reached the above-mentioned threshold are required to participate in and are bound by the provisions of this OJT Program. When a contractor is not assigned an annual training goal but still utilizes trainees/apprentices on a federal-aid project, the contractor will not be reimbursed for training hours under the OJT pay item, but the contractor may pay the trainees/apprentices the wages allowed in the approved training program, which may be less than the minimum pay rate for the classification. The contractor is still required to use an approved training program, register its trainees in the program, pay trainees according to the program, and show trainees on its payrolls as required by FHWA-1273, Sections IV and V.

II. PROGRAM REQUIREMENTS

A. Use of Approved Training Program

NMDOT recognizes four types of contractor based training programs. Those programs are: contractor in-house training programs that have received prior approval from both FHWA and NMDOT; training programs approved in other states subject to proof of approval; the approved Workforce Development Program provided through the Associated Contractors of New Mexico (ACNM); and the New Mexico Department of Workforce Solutions’ State Apprenticeship Council programs (e.g. union apprenticeships, if the contractor employees are otherwise eligible). If a contractor wants to use a training program other than one of the four mentioned above, the contractor must have the program approved by NMDOT and FHWA prior to commencing work. All training programs must be administered in a manner consistent with the equal employment obligations of federal-aid highway construction contracts. NMDOT reserves the right to request documentation that a program fulfills these obligations. Contractors must ensure that each trainee does not exceed the maximum number of training hours required for the completion of the selected training program.

B. Wage Requirements

Contractors must pay each approved trainee at the appropriate percentage of journeyman’s wage rate based on the approved training program and consistent with applicable State and Federal regulations and guidance.

C. Reporting Requirements
Contractors must submit the following documents to the administrator of the approved training program being utilized, the NMDOT Office of Equal Opportunity Programs, and, for NMDOT federal-aid projects, to the Project Manager:

1) Contractors shall complete and submit Form A-2201, Contractor OJT Enrollment Form, within seven business days of the contractor's intent to assign a trainee(s) to a project.

2) For NMDOT federal-aid projects, Contractors shall complete and submit form A-2203, OJT Program Labor Classification Request within seven business days of the contractor's intent to assign a trainee(s) to a project.

3) Contractors shall complete and submit Form A-2202, OJT Program Monthly Reporting Form, on or before the 10th of each month, reporting on the preceding month.

Contractors shall submit to the NMDOT Office of Equal Opportunity Programs an Annual Summary Report by January 20th of the following calendar year. The report must give an accurate account of all trainee hours; identifying each trainee by name, ethnicity and gender and identifying each project and/or contract and the trainee hours attributed thereto.

Contractors should also note that:

1) Monthly reports submitted after January 10th of the following year will not be accepted or considered towards goal attainment for the previous calendar year.

2) If a contractor did not attain its annual goal, it must submit, with its Annual Summary Report, documentation of its Good Faith Efforts to attain the goal (see Section III below).

Contractors should only submit paperwork for individuals accepted and enrolled in an approved training program as outlined in Section II A, and not for individuals participating in other training and/or apprenticeship programs.

D. Contractor Participation

The contractor's Equal Employment Opportunity Officer (EEO Officer) shall be responsible for monitoring and administering the trainees' progress. The EEO Officer shall serve as the point of contact for NMDOT representatives regarding information, documentation, and conflict resolution. The contractor shall furnish each trainee a copy of the Training Program and other documentation related to the training program. The contractor shall further make every reasonable effort to provide training that develops skills as required by the training program. The contractor shall furnish to each trainee, upon successful completion of their training program, a certificate showing the type and length of training satisfactorily completed.

E. Contractor Reimbursement

Except as otherwise noted below, NMDOT will reimburse the contractor 80 cents per hour of training given an employee on a State or Federal-aid project in accordance with an approved training program. Reimbursements will be made upon submission to and approval by the Project Manager of a request for
change order with the properly completed OJT monthly reporting forms attached. Reimbursement will not be made for a trainee’s hours that exceed the maximum number of training hours required for the completion of the selected classification in the training program.

III. Good Faith Efforts

If a contractor does not or cannot achieve its annual training goal with female or minority trainees, it must produce adequate Good Faith Efforts documentation. Good Faith Efforts are those efforts designed to achieve equal opportunity through positive, aggressive, and continuous result-oriented measures. (23 CFR 230.409(g)(4)). Good Faith Efforts should be taken as trainee hiring opportunities arise. Whenever a contractor requests NMDOT approval of someone other than a minority or a female for credit towards its annual training goal, the contractor must submit documented evidence of its Good Faith Efforts to fill that position with a minority or female.

NMDOT will consider all contractors’ documentation of Good Faith Efforts on a case-by-case basis, and take into account the following:

- Availability of minorities and females for training;
- The potential for effective training;
- Duration of the contract;
- Dollar value of the contract;
- Total normal work force that the average bidder could be expected to use
- Geographic location;
- Type of work;
- The need for journey level individuals in the area.

Good Faith Efforts may include, but are not limited to, documentation of efforts to:

- Contact minority and female employees to gain referrals on other minority and female applicants;
- Upgrade minority and female unskilled workers into the skilled classifications when possible;
- Accept applications at the project site or at the contractor’s office;
- Review and follow up on previously received applications from minorities and females when hiring opportunities arise;
- Maintain evaluations that monitor efforts made to achieve diversity on federal-aid projects and the contractor's workforce in general (i.e. significant numbers of minorities and females employed on a company wide basis);

NMDOT may reject utilization of non-minority male trainees for credit toward meeting the annual goal if it determines that the contractor failed to make sufficient Good Faith Efforts to hire minorities or female trainees and/or the contractor failed to document or submit evidence of its Good Faith Effort to do so.

IV. NMDOT PROGRAM MONITORING

A. Site Visits
NMDOT may conduct periodic site visits to a contractor’s worksite to review OJT Program compliance along with other contract compliance issues related to the project. NMDOT will make every effort to ensure minimal disruption to a contractor’s work.

B. End of Year Audits and Sanctions for Non-Compliance

NMDOT will perform an end of year audit of each contractor to verify attainment of the annual OJT goal. If a contractor, through its Annual Summary Report, can demonstrate that it attained its annual OJT Program goal or made adequate Good Faith Efforts to do so, then NMDOT will determine that the contractor is in compliance with the OJT Program requirements.

If a contractor has neither attained its goal nor submitted adequate Good Faith Efforts documentation, NMDOT will issue a Show Cause Notice outlining its findings of non-compliance and providing its determination of sanctions attributed thereto. Within thirty (30) days of receiving the Show Cause Notice, the contractor may submit a written response to the Show Cause Notice providing argument and evidence in opposition to the NMDOT findings of non-compliance and/or its determination of sanctions.

If a contractor fails to submit a written response to the Show Cause Notice within the specified period or the written response to the Show Cause Notice does not cause NMDOT to change its findings of non-compliance and/or its determination of sanctions, NMDOT will issue its Final Order to the contractor regarding the non-compliance and assessing sanctions.

Sanctions for non-compliance may include, but are not limited to: liquidated damages, suspension of any payment in whole or in part, termination or cancellation of contracts in whole or in part, and/or suspension or debarment of the contractor.

VIII. WAGE RATES

In the event of a discrepancy between the minimum wage rates in the Wage Decision of the DWS, and the U.S. Department of Labor Wage Decision applicable as of Project letting, the higher wage rates shall govern.

IX. LABOR REPORTING AND SUBMISSION OF WEEKLY PAYROLLS

Davis-Bacon and related acts mandate that federally funded require weekly certified payrolls must be generated and submitted for all portions or segments of the contract. The New Mexico Department of Workforce Solutions ("DWS") mandates tracking a construction Project's weekly payrolls and the process by which this reporting is accomplished by the Contractor. Knowledge of the DWS rules and procedures is attributed to the Contractor prior to its Bid submission. The latest forms posted in the DWS website, http://www.dws.state.mn.us, must be used for submittals. All outdated forms submitted will be rejected by the Department. If rejected, the Contractor Subcontractors will be required to submit the current DWS forms.

The following requirements apply to those Contractors and Subcontractors performing Work subject to this Contract's prevailing wage rates:
The Contractor and Subcontractor(s) at all tiers shall complete an original DWS "Statement of Intent to Pay Prevailing Wages" form prior to starting Work on the Project. The Contractor shall provide a copy of all forms to the Project Manager in accordance with the Standard Specification Section 108.2 "Notice to Proceed and Pre-Construction Conference". For Subcontracts established later on in the Project, the Contractor shall ensure that the Subcontractor's "Statement of Intent to Pay Prevailing Wages" form is submitted to the Project Manager.

Once construction begins, the Contractor shall submit weekly payroll information. The Contractor shall ensure that all Subcontractors at all tiers submit weekly payroll information.

Weekly payroll information shall be submitted as follows:

- On all Projects, the Contractor shall submit and shall ensure all Subcontractors submit weekly payroll information into the LCPtracker software program.

- All payrolls for the Project shall be submitted no later than seven (7) Days following the close of the second payroll period.

Prior to release of the Final Payment, the Contractor and Subcontractor(s) at all tiers shall fully comply with Standard Specification Section 109.10.7 "Contractor Submittal of Final Documentation".

The Contractor and Subcontractor(s) at all tiers shall preserve its weekly payroll records in accordance with Standard Specification Section 107.28 "Contractor Records".

On solely State funded Projects, the Rules and Regulations under the New Mexico Public Works Minimum Wage Act are, by this reference, made a part of this Contract.

On Federally-funded Projects, these provisions hereby supplement Paragraph V, Part 2 of the Required Contract Provisions on all Federal Aid Construction Contracts, FHWA-1273.

EEO Software Programs

The Contractor and Subcontractors at all tiers Working on federal-aid Projects shall use the following EEO Software Programs to report specific EEO, Labor Compliance and DBE information as required by the Contract and as specified by this NTC. The two software programs are:

- B2GNow software
- LCPtracker software

B2GNow - (Business to Government Now), is a web-based software program used to collect, verify and manage payment information for Contractors and Subcontractors Working on federal-aid Projects. Additionally, the software is used to collect and report DBE participation and utilization on federal-aid Projects. Information related to the use of the software is available at the NMDOT web page referenced in this NTC.

LCPtracker - (Labor Compliance Program Tracker) is a web-based software program used to collect, verify and manage prevailing wage certified payrolls and related labor compliance documentation for Contractors
and Subcontractors on federal-aid Projects. Information related to the use of the software is available at the NMDOT web page referenced in the NTC.

Use of B2GNow and LCPTracker software programs is required and shall be considered incidental to the Contract. Failure of a Contractor or Subcontractor to use the required software programs to report specific EEO, Labor Compliance and DBE information may result in a “Non-Conformance”.

Information on access to the software programs, log-on information, use of the programs, available training, user manuals, etc. can be obtained by accessing the web page referenced in this NTC.

X. TITLE VI Assurances Appendix A and Appendix E

Appendix A of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. Compliance with Regulations: The contractor (hereinafter includes consultants) will comply with the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time-to-time, (hereinafter referred to as the “Regulations”), which are herein incorporated by reference and made a part of this contract.

2. Non-discrimination: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate either directly or indirectly in the discrimination prohibited by THE Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of the 49 CFR Part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the New Mexico Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a
contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the New Mexico Department of Transportation (NMDOT), or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor’s non-compliance with the nondiscrimination provisions of this contract, the New Mexico Department of Transportation (NMDOT) will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

a. withholding payments to the contractor under the contract until the contractor complies; and/or
b. cancelling, terminating or suspending the contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the NMDOT or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the NMDOT to enter into any litigation to protect the interests of the NMDOT. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Appendix E of the Title VI Assurances

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaces or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (29 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
• The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
• Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
• The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
• Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
• The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
• Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
• Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your program (70 Fed. Reg. at 74087 to 74100);
• Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (U.S.C. 1581 et seq.)
NOTICE TO CONTRACTORS

Gross Receipts Tax

The New Mexico Procurement Code, NMSA 1978, § 13-1-108 (1984) requires the New Mexico Department of Transportation ("NMDOT") to exclude the applicable state gross receipts tax, or applicable local option tax, from Bids received for this Project. The NMDOT will pay the applicable tax including any increase in the applicable tax effective after the Contract is executed by the NMDOT. The applicable gross receipts tax or applicable local option tax will be shown as a separate amount on each Progress Payment.
NOTICE TO CONTRACTORS

New Mexico Employees Health Coverage

If the Bidder has, or grows to, six (6) or more employees who Work, or who are expected to Work, an average of at least 20 hours per week over a six (6) month period during the term of this Contract, the Bidder certifies by the submission of its Bid and if Awarded the Contract agrees to have in place, and agrees to maintain for the term of the Contract, health insurance for those employees and to offer that health insurance to those employees if the expected annual value in the aggregate of any and all Contracts between the Bidder and the New Mexico Department of Transportation ("NMDOT") exceeds $250,000.00.

The Bidder agrees to maintain a record of the number of employees who have:

A. Accepted health insurance;
B. Declined health insurance due to other health insurance coverage already in place; or
C. Declined health insurance for other reasons.

These records are subject to review and audit by a representative of the NMDOT.

The Bidder agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: http://www.insurenewmexico.state.nm.us/.

For all Contracts exceeding $250,000, the Bidder Awarded the Contract will be required to provide a letter stating that they currently offer health insurance to its New Mexico employees.
NOTICE TO CONTRACTORS

Office of Inspector General

The New Mexico Department of Transportation ("NMDOT") Office of Inspector General ("OIG") has the authority to carry out all duties required to collect information, conduct audits, special studies and investigations. The duties of the NMDOT's OIG also arise from the responsibility all state Departments of Transportation have for ensuring that all Federal-aid Projects are carried out in accordance with federal requirements.

The NMDOT's OIG shall be provided access to all documents associated with the Project per the 2014 Edition of the NMDOT's Standard Specifications for Highway and Bridge Construction, Section 107.28 - "Contractor Records".

To Report Fraud, Waste & Abuse

1-800-671-STOP
(1-800-671-7867)

The NMDOT OIG has established the above toll free number for reports of fraud, waste, abuse or similar illegal or unethical activity affecting the cost, completion or correct and safe construction of a Project. All information will be treated confidentially and caller anonymity will be respected.

The New Mexico Fraud Against Taxpayers Act:

The New Mexico Fraud Against Taxpayers Act, NMSA 1978, §§ 44-9-1 to -14 (2007, as amended through 2015) provides civil penalties for submitting a claim to a state agency based on false, fraudulent or misleading information. The Act also includes a financial incentive for parties with knowledge of such a claim to come forward.

To Report Bid Rigging Activities

1-800-424-9071

The U.S. Department of Transportation, Office of Inspector General has established the above toll free number for reports of Bid rigging, Bidder collusion, or other similar illegal or unethical activity affecting the cost, completion or correct and safe construction of a Project. All information will be treated confidentially and caller anonymity will be respected.
NOTICE TO CONTRACTORS

Professional Services

The following has been added to the 2014 Edition of the New Mexico Department of Transportation’s Standard Specifications for Highway and Bridge Construction Section 101.4 - "Terms and Definitions".

A Professional Service provider is considered a Subcontractor when Work is performed within the Project limits and shall be prequalified in accordance with 18.27.5 NMAC (12/07/2000, as amended through 01/01/2015).
NOTICE TO CONTRACTORS

Quality Standards for Traffic Control Devices

NOTICE TO CONTRACTORS

Return of Contract Documents

In accordance with the 2014 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction, Section 103.7 - "Execution and Approval of Contract", the successful Bidder shall return the documents listed in the notice of preliminary award of contract letter within fifteen (15) Days of the date on the letter. Pursuant to Section 103.8 - "Failure to Execute Contract", failure by the successful Bidder to comply with this Notice to Contractors may constitute just cause for cancellation of the Award and the forfeiture of the Bid Guarantee.
NOTICE TO CONTRACTORS

Specialty Items

To clarify the definition of Specialty Items in the 2014 Edition of the New Mexico Department of Transportation's Standard Specifications for Highway and Bridge Construction ("Standard Specifications"), Section 101.4 - "Terms and Definitions":

All Technician Training and Certification Program requirements for testing of Materials are Specialty Items.

Specialty Item Work will not be counted towards the Contractor's obligation to perform 40% of the Work with its own forces as noted in Standard Specifications, Section 108.1 - "Subcontracting".

The Contractor shall obtain the Project Manager's approval to Subcontract Specialty Items prior to starting Work.

Subcontractors performing Specialty Item Work are not required to be prequalified.
SUBCONTRACTOR LIST

Wage Decision No.: ______________________

Control No.: ______________________

Prime Contractor ________________________________________________________________

LIST ALL SUBCONTRACTORS AT ALL TIERS THAT ARE SUBJECT TO THE APPLICABLE WAGE
DECISION(S). DO NOT LIST SUPPLIERS OR PROFESSIONAL SERVICES. PROVIDE ALL REQUESTED
INFORMATION. MAKE ADDITIONAL COPIES OF THIS FORM AS NECESSARY.

Subcontractor Company Name: _____________________________________________________

Address: __________________________ City: ___________ State: ___ Zip: ______

Email Address: ______________________ Phone: ___________ Fax: ___________

Contractor License No: ________________ NMDWS Registration No: ________________

☐ 1st Tier Sub ☐ 2nd Tier Sub to: ______________________ ☐ 3rd Tier Sub to: ___________

Work to be performed: ___________________________ Amount ($) : _________________

Start Date: ____________________________

Subcontractor Company Name: _____________________________________________________

Address: __________________________ City: ___________ State: ___ Zip: ______

Email Address: ______________________ Phone: ___________ Fax: ___________

Contractor License No: ________________ NMDWS Registration No: ________________

☐ 1st Tier Sub ☐ 2nd Tier Sub to: ______________________ ☐ 3rd Tier Sub to: ___________

Work to be performed: ___________________________ Amount ($) : _________________

Start Date: ____________________________

Subcontractor Company Name: _____________________________________________________

Address: __________________________ City: ___________ State: ___ Zip: ______

Email Address: ______________________ Phone: ___________ Fax: ___________

Contractor License No: ________________ NMDWS Registration No: ________________

☐ 1st Tier Sub ☐ 2nd Tier Sub to: ______________________ ☐ 3rd Tier Sub to: ___________

Work to be performed: ___________________________ Amount ($) : _________________

Start Date: ____________________________

Subcontractor Company Name: _____________________________________________________

Address: __________________________ City: ___________ State: ___ Zip: ______

Email Address: ______________________ Phone: ___________ Fax: ___________

Contractor License No: ________________ NMDWS Registration No: ________________

☐ 1st Tier Sub ☐ 2nd Tier Sub to: ______________________ ☐ 3rd Tier Sub to: ___________

Work to be performed: ___________________________ Amount ($) : _________________

Start Date: ____________________________
General Decision Number: NM150051 01/02/2015 NM51

Superseded General Decision Number: NM20140051

State: New Mexico

Construction Type: Highway

Counties: Cibola, Colfax, Guadalupe, Harding, Los Alamos, McKinley, Mora, Quay, Rio Arriba, San Miguel, Taos and Union Counties in New Mexico.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date
0 01/02/2015

* SUNM2011-005 08/26/2011

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INSTALLER: (Guardrails, Handrails and Signs)

<table>
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<tr>
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</thead>
<tbody>
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<tr>
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IRONWORKER, REINFORCING/REBAR

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<td>Harding, Los Alamos, Mora,</td>
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<tr>
<td>Quay, San Miguel, Taos,</td>
<td>$ 21.57</td>
<td>4.80</td>
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IRONWORKER, STRUCTURAL ..... $ 21.77

LABORER

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<tr>
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<td>Common or General</td>
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Flagger/Cone Setter

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<td>Rio Arriba, San Miguel, Taos, Union</td>
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<td>PAINTER (Brush, Roller and</td>
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<tr>
<td>Spray)</td>
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<tr>
<td>Backhoe/Excavator/Trackhoe</td>
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<td>Los Alamos, Mora, Rio Arriba,</td>
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<td>San Miguel, Taos, Union</td>
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<td>Harding</td>
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<td>McKinley</td>
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<td>Quay</td>
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<td>Bobcat/Skid Loader</td>
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<td>Bulldozer</td>
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<td>Quay</td>
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<td>Taos, Union</td>
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<td>Loader (Front End)</td>
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NM 51 - 3
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<td>Mechanic</td>
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<td>Milling Machine</td>
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<td>Oiler</td>
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<td>Piledriver</td>
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<td>McKinley</td>
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<td>Quay</td>
<td>$15.99</td>
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<td>Roller (Asphalt and Dirt)</td>
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<td>Screeed</td>
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<td>Tractor</td>
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<td>Trencher</td>
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<td>Dump Truck</td>
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<td>$13.55</td>
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<td>Quay, San Miguel</td>
<td>$13.30</td>
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<td>Rio Arriba</td>
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<tr>
<td>Pickup and Pilot Car</td>
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<td>Semi-Trailer Truck</td>
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<td>Tractor Haul Truck</td>
<td>$14.00</td>
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<tr>
<td>Water Truck</td>
<td>$13.13</td>
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</table>

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.
Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

---------------------------------------------
WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on
  a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor

NM 51-6
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

   Administrative Review Board  
   U.S. Department of Labor  
   200 Constitution Avenue, N.W.  
   Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION
### ADA Transition Stops - Riverside Dr: Wage Decision #RA-15-1862 A

Build ADA Transit stop concrete pads and set owner supplied transit enclosure. Earthwork, concrete pad construction, traffic control, signing, miscellaneous paving, and set garbage receptacle.

**TYPE "A" - STREET, HIGHWAY, UTILITY & LIGHT ENGINEERING**

**Effective September 24, 2015**

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<tr>
<th>Trade Classification</th>
<th>Base Rate</th>
<th>Fringe Rate</th>
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<tr>
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<tr>
<td>Carpenter/Lather</td>
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<td>Cement Mason</td>
<td>17.11</td>
<td>6.32</td>
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<td>Ironworker</td>
<td>26.12</td>
<td>14.02</td>
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<td>Painter (Brush/Roller/Spray)</td>
<td>16.00</td>
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<td><strong>Electricians (outside)</strong></td>
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<td>Groundman</td>
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<td>Lineman/Wireman or Tech</td>
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<td><strong>Laborers</strong></td>
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<td><strong>Operators</strong></td>
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<td><strong>Truck Drivers</strong></td>
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**NOTE:** SUBSISTENCE, ZONE AND INCENTIVE PAY APPLY ACCORDING TO THE PARTICULAR TRADES COLLECTIVE BARGAINING AGREEMENT. DETAILS ARE LOCATED AT
NOTICE TO CONTRACTORS

Submittal Inclusion

The contract documents for the NCRTD – Transit Stops ADA Transition Plan Riverside Dr. – CN 5100972 notes the NMDOT in many references. Any required actions or submittals for the construction should also be provided to the NCRTD Project Manager.

Chief Engineer

Requests for Contract interpretation shall be directed in writing to the Project Manager, Stacey McGuire.

Stacey McGuire (Project Manager)
North Central Regional Transit District (NCRTD)
1327 N Riverside Dr
Española, NM 87532
staceym@nrctd.org

Notice to Proceed

The Contractor shall commence work on this contract on the date(s) specified on March 1, 2016. The Contractor may use this period for initial project ramp-up work such as obtaining necessary permits, environmental clearances, stockpiling of materials, development of shop drawings, or other activities that do not impact traffic within the Project Limits. No additional time extensions or project suspensions will be granted before March 1, 2016 unless for reasons caused by conditions beyond the control of and not the fault of the Contractor.

No Cost Changes

Notice to Proceed will be issued on March 1, 2016. The costs for bid shall be developed with that in mind. No increase for wages or cost will be allowed.

Testing Requirements

To achieve minimum testing requirements of the project, the contractor will have an independent testing laboratory provide the Project Manager:

One (1) Subgrade Compaction Test at Each Transit Site
Concrete Cylinders taken during Concrete Pours for two (2) sites

Cost for this work will be included in the cost per Bid Item 901000 “Contractor Process Quality Control”
BID FORM

North Central Regional Transit District
1327 N. Riverside Drive
Española, New Mexico 87532

I/We hereby propose to construct in accordance with CN#5100972 general terms, conditions and specifications.
Discrepancies in the multiplication of units of work and the unit prices will be resolved in favor of the correct multiplication of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

NMDOT Contractor Pre-Qualification: Yes ☑ No ☐

My/Our price(s) is as follows:

Bid Price $ 149,950.00

BIDDER: Allied 360 Construction, LLC  TELEPHONE: (505) 470-5779
ADDRESS: P.O. Box 1913 Española, New Mexico 87532
BIDDER'S DEPARTMENT OF WORKFORCE SOLUTIONS REGISTRATION No. 002432820121212
* BIDDER'S LICENSE No. 359136 * LICENSE CLASSIFICATION(S) ** See Attached**

* Not Required for Bidding on Federally funded Projects

The Bidder proposes to construct this NCRTD Project at the prices quoted in the Bid Schedule and in accordance with the Contract. The Contract includes the Advertisement, Bid Form, Bid Schedule, Contract Bond, Standard Specifications, Supplemental Specifications, Addenda, Notice to Contractors, Plans, Standard Drawings, Notice to Proceed, Change Orders and agreements that are required to complete the construction of the Work in an Acceptable manner, including authorized extensions thereof, all of which constitute one instrument. The contents of the Contract are incorporated by reference herein.

The submission of a Bid with shall be considered the Bidder's certification that it is exercised Pre-Bid Due Diligence and shall be considered prima facie evidence that the Bidder accepts the conditions to be encountered in performing the Work and accepts the provisions and requirements of the Contract. Pre-Bid Due Diligence is the Bidder’s exercise of due diligence before submittal of a Bid which includes the careful, independent examination of the site of the proposed Work, including Material pits and haul Roads, the Bid Package, all Contract documents including Standard Specifications, Special Provisions, Supplemental Specifications, and Standard Drawings and boring logs which representative of the condition at the precise location where each boring was made but conditions may vary between boring locations.

Contract Time is in the Advertisement. The Bidder shall commence Work within the timeframe specified in the Notice to Proceed, when issued, incorporated herein by reference.

Overcharges resulting from antitrust violations are borne by the NCRTD. Through the submission of the Bid, the Bidder certifies that the Bidder is duly authorized to assign, sell, convey, and transfer to the NCRTD all right, title and interest to all claims and causes of action the Bidder has or may acquire under state or federal antitrust laws provided that the claims or causes of action are related to the goods, Material or services that are the subject of this Contract and to the extent that the same are passed on to the NCRTD. Additionally, the Bidder certifies that it will require all its Subcontractors at all tiers to assign all federal and state antitrust claims and causes of action as described in this paragraph to the NCRTD. The provisions of this paragraph shall become effective at the time the NCRTD executes this Contract without further acknowledgement from the Bidder of the Bidder's Subcontractors at all tiers.
PERFORMANCE BOND

CONTRACTOR (name and address):
Allied 360 Construction, LLC
P.O. Box 1913
Espanola, New Mexico 87532

SURETY (name and address of principal place of business):
Old Republic Surety Company
17505 North 79th Avenue, Suite 205A
Glendale, Arizona 85308

OWNER (name and address):
Patrick Herrera
P.O. Box 1913 Espanola, New Mexico 87532

CONSTRUCTION CONTRACT
Effective Date of the Agreement: March 1, 2016
Amount: $149,950.00
Description (name and location): Construction of Bus Stops in Espanola

BOND
Bond Number: 1262096
Date (not earlier than the Effective Date of the Agreement of the Construction Contract): January 25, 2016
Amount: $149,950.00
Modifications to this Bond Form: ☑ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

** See Attached **

Allied 360 Construction, LLC (seal)
Contractor’s Name and Corporate Seal

By: Patrick Herrera (seal)
Signature

Surety’s Name and Corporate Seal

By: __________________________
Signature (attach power of attorney)

Patrick Herrera, P.O. Box 1913 Espanola, NM 87532
Print Name and Address for Notices

Managing Member
Title

Attest: _______________________
Signature

Office Manager
Title

Attest: _______________________
Signature

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.
PAYMENT BOND

CONTRACTOR (name and address):
Allied 360 Construction, LLC
P.O. Box 1913
Espanola, New Mexico 87532

SURETY (name and address of principal place of business):
Old Republic Surety Company
17505 North 79th Avenue, Suite 205A
Glendale, Arizona 85308

OWNER (name and address):
Patrick Herrera, P.O. Box 1913 Espanola, New Mexico 87532

CONSTRUCTION CONTRACT
   Effective Date of the Agreement: March 1, 2016
   Amount: $149,950.00
   Description (name and location): Construction of Bus Stops in Espanola

BOND
   Bond Number: 1262096
   Date (not earlier than the Effective Date of the Agreement of the Construction Contract): January 25, 2016
   Amount: $149,950.00
   Modifications to this Bond Form: ✓ None □ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

Allied 360 Construction, LLC (seal)
Contractor's Name and Corporate Seal

By: Patrick Herrera (seal)
Signature

SURETY

** See Attached ** (seal)
Surety's Name and Corporate Seal

By: 
Signature (attach power of attorney)

Patrick Herrera, P.O. Box 1913 Espanola, NM 87532
Print Name and Address for Notices

Managing Member
Title

Attest: Francisco Martinez
Signature

Office Manager
Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.
## BID SCHEDULE

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>ITEM DESCRIPTION</th>
<th>ESTIMATED QUANTITY</th>
<th>UNIT</th>
<th>UNIT PRICE</th>
<th>BID AMOUNT</th>
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<tr>
<td>417000</td>
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<tr>
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<td>LIN. FT.</td>
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<td>$4,400.00</td>
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<td>L.S.</td>
<td>$8,000.00</td>
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</tbody>
</table>

**TOTAL AMOUNT BID (NOT INCLUDING NMGRT)**

$149,950.00
AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between North Central Regional Transit District ("Owner") and Allied 360 Construction, LLC ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Transit Stops – ADA Transition Plan - Riverside Dr Espanola, New Mexico

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Wilson and Company Inc., Engineers and Architects.

3.02 North Central Region Transit District has retained Wilson and Company Inc., Engineers and Architects ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Contract Times: Dates

A. The Work will be substantially completed on or before June 30, 2016, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before 07/01/16

4.03 Liquidated Damages

A. Contractor and North Central Region Transit District recognize that time is of the essence as stated in Paragraph 4.01 above and that North Central Region Transit District will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by North Central Region Transit District if the Work is not completed on time. Accordingly, instead of requiring any such proof, North Central Region Transit District and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Contractor shall pay North Central Region Transit District $800 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.

2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay North Central Region Transit District $800 for each day that expires after such time until the Work is completed and ready for final payment.

3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

   A. Contractor will complete the attached Bid Form. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that Item):

      The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

   B. Total Unit Price Work (subject to final Unit Price adjustment) $149,950.00.

   C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

   A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

   A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 25th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments
previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract

a. ______ percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and

B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to ______ percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less ______ percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS

7.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.

F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies,
or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 12, inclusive).
2. Performance bond (pages 4 to 6, inclusive).
3. Payment bond (pages 7 to 10, inclusive).
4. Other bonds.
   a. Bid (pages 21 to 22, inclusive).
5. General Conditions (pages 13 to 19, inclusive).
6. Supplementary Conditions (pages 20 to 23, inclusive).
7. Specifications as listed in the table of contents of the Project Manual.
8. Drawings (not attached but incorporated by reference) consisting of 23 sheets with each sheet bearing the following general title: [or] the Drawings listed on the attached sheet index.

ADA Curb Ramp Documentation

9. Addenda (numbers 01 to 02, inclusive).

10. Exhibits to this Agreement (enumerated as follows):
   a. Contractor's Bid (pages 11 to 12, inclusive).

11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
   a. Notice to Proceed.
   b. Work Change Directives.
   c. Change Orders.
   d. Field Orders.

B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 9.

EJCDC© C-520, Agreement Between Owner and Contractor for Construction Contract (Stipulated Price).
Copyright © 2013 National Society of Professional Engineers, American Council of Engineering Companies, and American Society of Civil Engineers. All rights reserved. Page 4 of 8
IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on 03/01/2016 (which is the Effective Date of the Contract).

OWNER:

By: 

Title: 

Attest: 

Title: 

Address for giving notices:

(CONTRACTOR:)

Allied 360 Construction, LLC

By: Patrick Nemerov

Title: Managing Member

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: N.Martinez

Title: Office Manager

Address for giving notices:

P.O. Box 1913

Espanola, New Mexico 87532

License No.: 359136

(where applicable)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.)
New Mexico Department of Transportation ("NMDOT")
Bidder's List of Quoters for the Disadvantaged Business Enterprise ("DBE") Program

Control Number ("CN"): 5100672

**BIDDER:** Allied 360 Construction, LLC  
**TELEPHONE:** (505) 470-5779  
**ADDRESS:** P.O. Box 1913 Espanola, New Mexico 87532

The NMDOT establishes the New Mexico DBE goal using the mechanism of a Bidder's list per 49 C.F.R. § 26.45 (2014). The Bidder's list shall contain all quotes, from both DBE and non-DBE quoters, received by the Bidder and shall be submitted with the Bid. The term "quoter" shall include Subcontractors and Suppliers.

Failure of the Bidder to comply with this Bidder's List of Quoters shall render the Bid non-responsive and the Bid shall be rejected.

<table>
<thead>
<tr>
<th>Name of Contractor, Subcontractor or Supplier</th>
<th>Address</th>
<th>DBE</th>
<th>Non-DBE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (Name and Address):
Allied 360 Construction, LLC
P.O Box 1913
Espanola, New Mexico 87532

SURETY (Name, and Address of Principal Place of Business):
Old Republic Surety Company
17505 North 79th Avenue, Suite 205A
Glendale, Arizona 85308

OWNER (Name and Address):
Patrick Herrera
P.O. Box 1913
Espanola, New Mexico 87532

BID

Bid Due Date: January 28, 2016
Description (Project Name—Include Location): Construction of Bus Stops in Espanola, NM 87532

BOND

Bond Number: 1262096
Date: January 25, 2016
Penal sum One Hundred Forty Nine Thousand Nine Hundred Fifty Dollars and $149,950.00

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

Allied 360 Construction, LLC (Seal)
Bidder’s Name and Corporate Seal

By: ____________________________ By: ____________________________
Signature (Attach Power of Attorney)

Patrick Herrera
Print Name

Managing Member
Title

Attest: ____________________________ Attest: ____________________________
Signature

Title Office Manager

SURETY

** See Attached ** (Seal)
Surety’s Name and Corporate Seal

By: ____________________________
Signature

Print Name

Title

Note: Addresses are to be used for giving any required notice.
Provide execution by any additional parties, such as joint venturers, if necessary.
North Central Regional Transit District ("NCRTD")
Disadvantaged Business Enterprise ("DBE") Goal

Form A-585

Control Number ("CN"): 5100972

Bidder Allied 360 Construction, LLC Telephone: (505) 470-5779
Address: P.O. Box 1913 Espanola, New Mexico 87532

Contractor's DBE Liaison Officer:

Total Bid Amount $

Contractors DBE Participation

Dollar Estimate and Participation $ 0 or 0 %.

For this Project the DBE participation goal is in the Advertisement. If the Bidder can meet the DBE goal it shall complete this form and submit the same before Bid Opening. If the Bidder is unable to meet the goal it shall submit evidence of its good faith efforts taken to meet the goal by 4:30 PM, local prevailing time, seven (7) Days after Bid Opening per 49 C.F.R. § 26.53 (b)(3) (2014).

Good faith efforts require that the Bidder show that it took all necessary and reasonable steps to achieve this Project's DBE goal. The necessary and reasonable steps are expected, by their scope, intensity, and appropriateness to the objective of meeting this Projects DBE goal, to obtain sufficient DBE participation. Good faith efforts include, but are not limited to, those described in the Federal Requirements Notice to Contractors and 49 C.F.R. Pt. 26, Appendix A (2014).

If the NCRTD determines that the Bidder has failed to make good faith efforts to meet the DBE goal the Bidder is entitled to seek administrative reconsideration per 49 C.F.R. § 26.53 (d).

<table>
<thead>
<tr>
<th>Name of Certified DBE Contractor, Subcontractor or Supplier</th>
<th>Address</th>
<th>NAICS Code for DBE</th>
<th>Item No.(s) of Work Description</th>
<th>Proposed Amount (round to nearest dollar)</th>
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</thead>
<tbody>
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</tbody>
</table>

Bidders shall use certified DBEs contained in the DBE directory required by 49 C.F.R. § 26.81(g) (2011). Bidders shall confirm that the DBE is certified at the following link:

https://nmdot.dbesystem.com/External/VendorSearchPublic.asp?TN=nmdot&XID=5347

Failure to comply with the requirements of the DBE Goal Form A-585 shall render the Bid non-responsive and the Bid shall be rejected.
New Mexico Department of Transportation ("NMDOT")
Non-Debarment Certification

Control Number ("CN"): 5100972

BIDDER: Allied 360 Construction, LLC  TELEPHONE: (505) 470-5779
ADDRESS: P.O. Box 1913 Espanola, New Mexico 87532

The Federal Highway Administration suspends or debars contractors to protect taxpayer dollars and the NMDOT is required to Award Contracts to responsible Bidders. The submission of the Bid is the Bidder's certification that neither it nor its principals are presently suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Project by any federal department or agency. The Bidder further agrees that if it is the lowest Responsible Bidder and awarded the Contract then it shall comply with the following:

1. The Contractor shall verify through the SAM.gov website at https://www.sam.gov/portal/SAM/#/11 that its Subcontractor(s), at any tier(s), is not presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Project. The result of this verification shall be provided in the NMDOT's permission to subcontract request form number A - 1086 and A - 1087; and

2. If circumstances change to render this certification inaccurate then the Contractor shall provide the changed circumstances immediately in writing to the Project Manager.

If the Contractor knowingly makes a false certification the NMDOT may take any available actions under the Contract.

Failure to acknowledge the terms and conditions above shall render the Bid non-responsive and the Bid shall be rejected.

I acknowledge
New Mexico Department of Transportation ("NMDOT")
Pay Equity Reporting Acknowledgement
New Mexico Executive Order 2009-049

Control Number ("CN"): 5100972

BIDDER: Allied 360 Construction, LLC TELEPHONE: (505) 470-5779
ADDRESS: P.O. Box 1913 Espanola, New Mexico 87532

Pre-Award

The State of New Mexico requires the lowest Responsible Bidder to, in order to contract with Executive Branch Agencies, including the NMDOT, comply with Executive Order 2009-049. To comply with the Executive Order, after receipt of the notice of preliminary award of contract, the lowest Responsible Bidder shall submit per the notice of preliminary award of contract either form PE10-249 or PE250 depending on its number of employees at the time it receives the notice of preliminary award of contract.

Failure of the lowest Responsible Bidder to comply with this Pay Equity Reporting Acknowledgement may constitute just cause for cancellation of the Award and the forfeiture of the Bid Guaranty.

Exemptions exist regarding compliance with the Executive Order. The Executive Order and required forms can be obtained from the following link:

http://www.generalservices.state.nm.us/statepurchasing/pay_equity.aspx

Post-Award

If Contract Time extends beyond one (1) year from the date in the Notice to Proceed, then within ten Days of the annual anniversary date of the Notice to Proceed, the Contractor shall submit to the Project Manager an updated form PE 10-249 or PE250 depending on the number of employees it has at that time.

If at the expiration of Contract Time, more than 180 Days has elapsed since submittal of the last PE 10-249 or PE250, the Contractor shall submit to the Project Manager an updated form PE 10-249 or PE250.

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and has ten or more employees or eight (8) employees in the same job classification then the Contractor shall submit to the Project Manager the PE 10-249 or PE250. The Contractor shall submit the appropriate form with the permission to subcontract package forms A-1086 or A-1087.

If a Subcontractor, at any tier, performs ten percent or more of the Total Original Contract Amount and during the performance of this Work grows to have ten or more employees or eight (8) employees in the same job classification then the Contractor shall immediately submit form PE 10-249 or PE250.

Subsequent form PE 10-249 or PE250 submittals, by the Contractor for its Subcontractors, at any tier, shall be due yearly on the anniversary date of the Project Manager's approval of the permission to subcontract package.

Failure of the Contractor to comply with this Pay Equity Reporting Acknowledgement shall result in the NMDOT exercising its remedies under the Contract.

I acknowledge
New Mexico Department of Transportation ("NMDOT")
Subcontractors Fair Practices Act Compliance

Control Number ("CN"): 5100972

BIDDER: **Allied 360 Construction, LLC**
TELEPHONE: (505) 470-5779
ADDRESS: P.O. Box 1913 Espanola, New Mexico 87532


The Subcontractors Fair Practices Act prevents Contractors from bid shopping and bid peddling. The Subcontractors Fair Practices Act requires that Subcontractor quotes received for specific Bid Item Work shall be listed when the quote exceeds the listing threshold identified herein.

For this Project, quotes for street lighting and traffic signals that exceed the listing threshold in the Advertisement shall be listed.

Only one Subcontractor shall be listed below for each Bid Item.

The listing requirements do not apply if the Contractor:

1) Receives no quotes for the Bid Item Work and the Contractor states the same below, or

2) Receives only one quote for the Bid Item Work, the Contractor states the name of the sole quoter below and the designation of sole quoter below only occurs one time.

<table>
<thead>
<tr>
<th>Bid Item(s)</th>
<th>Subcontractor (and if sole quoter designation as sole quoter)</th>
<th>Address</th>
<th>Quote Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not Applicable</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Failure to list a Subcontractor quote, that no quotes were received, or that a sole quote was received for the Bid Items that exceed the listing threshold is the Contractor’s representation that it is qualified and shall self perform the Bid Item Work itself.

Substitutions of listed Subcontractors with other listed Subcontractors or with non-listed Subcontractors are allowed only per Section 13-4-36 and is conditioned upon the written consent of the NMDOT before the substitution occurs.

Failure of the Contractor to comply with the requirements herein shall be grounds for NMDOT’s exercising its contractual remedies and the assessment of penalties per Section 13-4-41.
Via Electronic Mail

December 18, 2015

Allied 360° Construction, LLC
PO Box 1913
Espanola, NM 87532
Email: allied360@windstream.net

RE: Prequalification Packet Approval

Dear Mr. Herrera:

This letter is to inform you that your company’s Prequalification Packet has been approved by the New Mexico Department of Transportation (NMDOT). You were approved on 12/18/15 and are now prequalified.

Your prequalified status expires in exactly one year on 12/18/16. Please see the Contractor Prequalification Rule, 18.27.5 INMAC, for further explanation of the expiration and renewal process.

Your renewal packet shall be submitted no later than the close of business seven calendar days before your prequalified status expires. Without timely renewal your prequalified status will automatically terminate.

If you have any questions, concerns or require additional information regarding the prequalification process, please do not hesitate to call me at (505) 476-0901 or Geraldine Aguilar at (505) 476-0917. Thank you.

Sincerely,

Charla Montoya
Investigations and Special Inquiries Bureau
**Company Details**

- **Company Name**: ALLIED 360 CONSTRUCTION, LLC  
- **License Number**: 359136  
- **Phone Number**: 5054705779  
- **License Status**: Active  
- **Issue Date**: 11/11/2008  
- **Expiry Date**: 11/30/2017  
- **Volume**: $1000000.00 +  
- **Address**:
  - PO BOX 1913  
  - City: ESPANOLA  
  - State: NM  
  - Zip Code: 87532

**QP Details**

<table>
<thead>
<tr>
<th>Name</th>
<th>Certificate No</th>
<th>Classification</th>
<th>Attach Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>PATRICK JULIAN HERRERA</td>
<td>359135</td>
<td>GB98</td>
<td>11/11/2008</td>
<td>Attached</td>
</tr>
<tr>
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<td>368910</td>
<td>GF08</td>
<td>02/21/2011</td>
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</tr>
<tr>
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<td>GF07</td>
<td>02/25/2011</td>
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<tr>
<td>PATRICK JULIAN HERRERA</td>
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<td>03/17/2011</td>
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<tr>
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<tr>
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<td>05/03/2011</td>
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<td>PATRICK JULIAN HERRERA</td>
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<td>05/03/2011</td>
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<tr>
<td>PATRICK JULIAN HERRERA</td>
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<td>GF04</td>
<td>05/16/2011</td>
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<td>PATRICK JULIAN HERRERA</td>
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<tr>
<td>PATRICK JULIAN HERRERA</td>
<td>373617</td>
<td>GA02</td>
<td>03/23/2012</td>
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<tr>
<td>PATRICK JULIAN HERRERA</td>
<td>373618</td>
<td>GA04</td>
<td>03/23/2012</td>
<td>Attached</td>
</tr>
<tr>
<td>PATRICK JULIAN HERRERA</td>
<td>373619</td>
<td>GF02</td>
<td>03/23/2012</td>
<td>Attached</td>
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<tr>
<td>JULIAN HERRERA</td>
<td>25217905</td>
<td>ES07</td>
<td>05/04/1998</td>
<td>Attached</td>
</tr>
<tr>
<td>JULIAN HERRERA</td>
<td>25220838</td>
<td>EL01</td>
<td>05/04/1998</td>
<td>Attached</td>
</tr>
</tbody>
</table>
January 25, 2016

Re: Allied 360 Construction, L.L.C.

To whom it may concern,

Please be advised the Old Republic is the surety of record for Allied 360 Construction, L.L.C. Allied 360 Construction, L.L.C is an account in good standing and we are pleased to offer this recommendation on their behalf.

Old Republic is a approved surety by the US Department of the Treasury and is licensed in all 50 states. Our Best’s rating is A and financial capacity XI.

We understand that Allied 360 Construction, L.L.C is desirous of becoming prequalified. Old Republic Surety Company has supported Allied 360 Construction, L.L.C on projects up to $250,000 single and $500,000 aggregate jobs. Actual approval of bid and final bonds however will be subject to review and approval of contact terms and conditions, bond forms and projects financing as well as other underwriting criteria pertinent at the time such bonds are requested by Allied 360 Construction, L.L.C.

This letter in not a assumption of any liability, nor is a bid, performance and payment obligation. We are pleased to share with you our favorable experience and high regard for Allied 360 Construction, L.L.C.

Sincerely,

Brent Rice
General Manager
CN#5100972
Re-Bid Results
January 28, 2016

As of Thursday, January 28, 2016 @ 200p.

The following bid was received:

Allied 360 Construction, LLC $149,950.00

Bids received after this time were not opened, and rejected to sender.
North Central Regional Transit District
Financial Summary
As of February 29, 2016

Summary:
The North Central Regional Transit District (NCRTD) is currently reporting the eight months of financial activity. The expenses/revenues that should be reported for the period through February 29, 2016, which represents 66.66% of the budget.

The monthly budget figures for the federal grant revenues and expenditure figures from the charts/tables have been divided using a straight-line method (1/12 increments). The GRT monthly budget figures are allocated utilizing trends from the last six fiscal years. NCRTD reports financials that follow GAAFR (Governmental Accounting, Auditing, and Financial Reporting). The charts/tables compare the current year revenues and expenditures to the previous year.

Financial Highlights
Revenue:
As of February 29, 2016, total revenues of $6,403,787 have been received, which is 52.20% of budgeted revenues. NCRTD has $4,512,900 of GRT through January 2016 and $1,640,284 of Federal grant revenues through February 2016.

Expenditures:
As of February 29, 2016, NCRTD recognized expenditures totaling $5,420,063 which is 43.2% of total budgeted expenditures.

Of which $673,640 was spent in February, $96,686 was in Administration, $277,216 in Operations and $299,738 in Capital Outlay. Administration has spent 57.9%, Operations 45.0% and Capital Outlay 28.2% of its budgets year to date.

Other Matters:
N/A
MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
NCRTD Revenue and Expenses vs. Budget
As of February 29, 2016

Overall Revenue/Expenses FY 16

<table>
<thead>
<tr>
<th>Month</th>
<th>Budget Revenue FY16</th>
<th>Current Year FY16 Actuals Revenue</th>
<th>Budget Expenses FY16</th>
<th>Current Year FY16 Actuals Expense</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>935,945</td>
<td>94,428</td>
<td>935,945</td>
<td>273,848</td>
</tr>
<tr>
<td>August</td>
<td>935,945</td>
<td>66,895</td>
<td>935,945</td>
<td>607,663</td>
</tr>
<tr>
<td>September</td>
<td>935,945</td>
<td>674,360</td>
<td>935,945</td>
<td>249,172</td>
</tr>
<tr>
<td>October</td>
<td>1,082,301</td>
<td>913,503</td>
<td>1,082,301</td>
<td>966,567</td>
</tr>
<tr>
<td>November</td>
<td>1,082,301</td>
<td>1,574,056</td>
<td>1,082,301</td>
<td>709,030</td>
</tr>
<tr>
<td>December</td>
<td>1,082,301</td>
<td>844,838</td>
<td>1,082,301</td>
<td>913,619</td>
</tr>
<tr>
<td>January</td>
<td>1,082,301</td>
<td>1,053,531</td>
<td>1,082,301</td>
<td>1,026,524</td>
</tr>
<tr>
<td>February</td>
<td>1,082,301</td>
<td>1,182,176</td>
<td>1,082,301</td>
<td>673,640</td>
</tr>
<tr>
<td>March</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td></td>
</tr>
<tr>
<td>April</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td></td>
</tr>
<tr>
<td>June</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td>1,082,301</td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td>$12,548,543</td>
<td>$6,403,787</td>
<td>$12,548,543</td>
<td>$5,420,063</td>
</tr>
</tbody>
</table>
MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
NCRTD Revenue by Sources
As of February 29, 2016

<table>
<thead>
<tr>
<th></th>
<th>2013 Actual</th>
<th>2014 Budget</th>
<th>2014 Actual</th>
<th>2015 Actual</th>
<th>2016 Budget</th>
<th>2016 Actual</th>
<th>% of Actual vs Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Receipt</td>
<td>$6,871,271</td>
<td>$6,757,529</td>
<td>$6,941,122</td>
<td>$7,247,360</td>
<td>$6,903,500</td>
<td>$4,512,900</td>
<td>65.4%</td>
</tr>
<tr>
<td>Fed Grant</td>
<td>$1,957,128</td>
<td>$2,198,429</td>
<td>$1,902,036</td>
<td>$1,762,384</td>
<td>$3,781,539</td>
<td>$1,604,284</td>
<td>42.4%</td>
</tr>
<tr>
<td>State Capital/Outlay</td>
<td>-</td>
<td>$170,000</td>
<td>$161,188</td>
<td>-</td>
<td>$301,312</td>
<td>$159,463</td>
<td>0.0%</td>
</tr>
<tr>
<td>Local Match</td>
<td>$500,000</td>
<td>$450,000</td>
<td>$450,000</td>
<td>$400,000</td>
<td>$350,000</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Member Contributions</td>
<td>$333,000</td>
<td>$450,000</td>
<td>$450,000</td>
<td>$400,000</td>
<td>$350,000</td>
<td>-</td>
<td>0.0%</td>
</tr>
<tr>
<td>Use of Fund Balance</td>
<td>$80,344</td>
<td>$156,154</td>
<td>$194.4%</td>
<td>$301,312</td>
<td>$159,463</td>
<td>$0.0%</td>
<td></td>
</tr>
<tr>
<td>Misc Revenues</td>
<td>$24,312</td>
<td>$60,500</td>
<td>$53,637</td>
<td>$105,967</td>
<td>$443,296</td>
<td>$112,540</td>
<td>25.4%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$9,685,711</td>
<td>$9,636,458</td>
<td>$9,507,983</td>
<td>$9,515,711</td>
<td>$12,548,543</td>
<td>$6,545,341</td>
<td>52.2%</td>
</tr>
</tbody>
</table>
## MONTHLY BOARD REPORT

**FY2016 (July 1, 2015 to June 30, 2016)**

**Gross Receipts Revenue By County**

### LOS ALAMOS COUNTY

![Graph showing actual and budgeted revenues by month.]

<table>
<thead>
<tr>
<th>Date</th>
<th>Actual</th>
<th>Budget</th>
<th>Actual Revenue % of Monthly Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul-15</td>
<td>$116,870</td>
<td>$106,697</td>
<td>110%</td>
</tr>
<tr>
<td>Aug-15</td>
<td>$138,688</td>
<td>$108,045</td>
<td>128%</td>
</tr>
<tr>
<td>Sep-15</td>
<td>$279,213</td>
<td>$212,660</td>
<td>131%</td>
</tr>
<tr>
<td>Oct-15</td>
<td>$28,496</td>
<td>$24,500</td>
<td>116%</td>
</tr>
<tr>
<td>Nov-15</td>
<td>$93,942</td>
<td>$83,423</td>
<td>113%</td>
</tr>
<tr>
<td>Dec-15</td>
<td>$101,662</td>
<td>$82,075</td>
<td>124%</td>
</tr>
<tr>
<td>Jan-16</td>
<td>$174,873</td>
<td>$100,450</td>
<td>174%</td>
</tr>
<tr>
<td>Feb-16</td>
<td>-</td>
<td>$59,045</td>
<td>0%</td>
</tr>
<tr>
<td>Mar-16</td>
<td>-</td>
<td>$95,550</td>
<td>0%</td>
</tr>
<tr>
<td>Apr-16</td>
<td>-</td>
<td>$161,455</td>
<td>0%</td>
</tr>
<tr>
<td>May-16</td>
<td>-</td>
<td>$101,185</td>
<td>0%</td>
</tr>
<tr>
<td>Jun-16</td>
<td>-</td>
<td>$89,915</td>
<td>0%</td>
</tr>
<tr>
<td><strong>YTD Total</strong></td>
<td><strong>$933,744</strong></td>
<td><strong>$1,225,000</strong></td>
<td><strong>76%</strong></td>
</tr>
</tbody>
</table>
MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
Gross Receipts Revenue By County

RIO ARRIBA COUNTY

<table>
<thead>
<tr>
<th>Date Received</th>
<th>Actual</th>
<th>Budget</th>
<th>Actual Revenue % of Monthly Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul-15</td>
<td>$53,233</td>
<td>$51,108</td>
<td>104%</td>
</tr>
<tr>
<td>Aug-15</td>
<td>$45,322</td>
<td>$52,473</td>
<td>86%</td>
</tr>
<tr>
<td>Sep-15</td>
<td>$53,311</td>
<td>$51,506</td>
<td>104%</td>
</tr>
<tr>
<td>Oct-15</td>
<td>$50,632</td>
<td>$51,790</td>
<td>98%</td>
</tr>
<tr>
<td>Nov-15</td>
<td>$56,629</td>
<td>$46,105</td>
<td>123%</td>
</tr>
<tr>
<td>Dec-15</td>
<td>$52,583</td>
<td>$52,643</td>
<td>100%</td>
</tr>
<tr>
<td>Jan-16</td>
<td>$42,699</td>
<td>$42,353</td>
<td>101%</td>
</tr>
<tr>
<td>Feb-16</td>
<td>-</td>
<td>$38,715</td>
<td>0%</td>
</tr>
<tr>
<td>Mar-16</td>
<td>-</td>
<td>$43,092</td>
<td>0%</td>
</tr>
<tr>
<td>Apr-16</td>
<td>-</td>
<td>$42,240</td>
<td>0%</td>
</tr>
<tr>
<td>May-16</td>
<td>-</td>
<td>$44,968</td>
<td>0%</td>
</tr>
<tr>
<td>Jun-16</td>
<td>-</td>
<td>$51,506</td>
<td>0%</td>
</tr>
<tr>
<td>YTD Total</td>
<td>$354,409</td>
<td>$568,500</td>
<td>62%</td>
</tr>
</tbody>
</table>
## MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
Gross Receipts Revenue By County

### SANTA FE COUNTY

<table>
<thead>
<tr>
<th>Date Received</th>
<th>Actual</th>
<th>Budget</th>
<th>Actual Revenue % of Monthly Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul-15</td>
<td>$ 408,793</td>
<td>$ 374,530</td>
<td>109%</td>
</tr>
<tr>
<td>Aug-15</td>
<td>$ 378,033</td>
<td>$ 384,850</td>
<td>98%</td>
</tr>
<tr>
<td>Sep-15</td>
<td>$ 387,492</td>
<td>$ 371,090</td>
<td>104%</td>
</tr>
<tr>
<td>Oct-15</td>
<td>$ 372,493</td>
<td>$ 356,900</td>
<td>104%</td>
</tr>
<tr>
<td>Nov-15</td>
<td>$ 333,369</td>
<td>$ 333,250</td>
<td>100%</td>
</tr>
<tr>
<td>Dec-15</td>
<td>$ 396,434</td>
<td>$ 414,090</td>
<td>96%</td>
</tr>
<tr>
<td>Jan-16</td>
<td>$ 348,564</td>
<td>$ 310,460</td>
<td>112%</td>
</tr>
<tr>
<td>Feb-16</td>
<td>-</td>
<td>$ 307,880</td>
<td>0%</td>
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<tr>
<td>Mar-16</td>
<td>-</td>
<td>$ 356,470</td>
<td>0%</td>
</tr>
<tr>
<td>Apr-16</td>
<td>-</td>
<td>$ 337,550</td>
<td>0%</td>
</tr>
<tr>
<td>May-16</td>
<td>-</td>
<td>$ 352,600</td>
<td>0%</td>
</tr>
<tr>
<td>Jun-16</td>
<td>-</td>
<td>$ 400,330</td>
<td>0%</td>
</tr>
<tr>
<td>YTD Total</td>
<td>$ 2,625,178</td>
<td>$ 4,300,000</td>
<td>61%</td>
</tr>
</tbody>
</table>

** Note one-half of the SF County GRT is allocated to Rio Metro.

3/30/2016 Unaudited financials-For Board and Management purposes/review
## TAOS COUNTY

### MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
Gross Receipts Revenue By County

<table>
<thead>
<tr>
<th>Date</th>
<th>Actual</th>
<th>Budget</th>
<th>Actual of Monthly Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul-15</td>
<td>$87,557</td>
<td>$73,953</td>
<td>118%</td>
</tr>
<tr>
<td>Aug-15</td>
<td>$75,544</td>
<td>$69,579</td>
<td>109%</td>
</tr>
<tr>
<td>Sep-15</td>
<td>$92,114</td>
<td>$67,554</td>
<td>136%</td>
</tr>
<tr>
<td>Oct-15</td>
<td>$81,318</td>
<td>$65,610</td>
<td>124%</td>
</tr>
<tr>
<td>Nov-15</td>
<td>$87,479</td>
<td>$58,482</td>
<td>150%</td>
</tr>
<tr>
<td>Dec-15</td>
<td>$102,741</td>
<td>$87,318</td>
<td>118%</td>
</tr>
<tr>
<td>Jan-16</td>
<td>$72,816</td>
<td>$60,507</td>
<td>120%</td>
</tr>
<tr>
<td>Feb-16</td>
<td>- $</td>
<td>$62,856</td>
<td>0%</td>
</tr>
<tr>
<td>Mar-16</td>
<td>- $</td>
<td>$72,900</td>
<td>0%</td>
</tr>
<tr>
<td>Apr-16</td>
<td>- $</td>
<td>$57,996</td>
<td>0%</td>
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<tr>
<td>May-16</td>
<td>- $</td>
<td>$60,669</td>
<td>0%</td>
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<tr>
<td>Jun-16</td>
<td>- $</td>
<td>$72,576</td>
<td>0%</td>
</tr>
<tr>
<td>YTD Total</td>
<td>$599,569</td>
<td>$810,000</td>
<td>74%</td>
</tr>
</tbody>
</table>

3/30/2016 Unaudited financials-For Board and Management purposes/review
## MONTHLY BOARD REPORT

**FY2016 (July 1, 2015 to June 30, 2016)**

**Gross Receipts Revenue**

### Budget to Actual FY2016

<table>
<thead>
<tr>
<th>Month</th>
<th>Budget</th>
<th>Actual</th>
<th>Actual Revenue % of Monthly Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$606,288</td>
<td>$666,453</td>
<td>110%</td>
</tr>
<tr>
<td>August</td>
<td>$614,947</td>
<td>$637,587</td>
<td>104%</td>
</tr>
<tr>
<td>September</td>
<td>$702,810</td>
<td>$812,130</td>
<td>116%</td>
</tr>
<tr>
<td>October</td>
<td>$498,800</td>
<td>$532,939</td>
<td>107%</td>
</tr>
<tr>
<td>November</td>
<td>$521,260</td>
<td>$571,419</td>
<td>110%</td>
</tr>
<tr>
<td>December</td>
<td>$636,126</td>
<td>$653,420</td>
<td>103%</td>
</tr>
<tr>
<td>January</td>
<td>$513,770</td>
<td>$638,952</td>
<td>124%</td>
</tr>
<tr>
<td>February</td>
<td>$468,496</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>March</td>
<td>$568,012</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>April</td>
<td>$599,241</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>$559,422</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>June</td>
<td>$614,327</td>
<td>$-</td>
<td></td>
</tr>
</tbody>
</table>

**Prior Year vs. Current Year**

<table>
<thead>
<tr>
<th>Month</th>
<th>Prior Year FY2015</th>
<th>Current Year FY2016</th>
<th>Inc/Dec from Prior Year to Current Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$640,624</td>
<td>$666,453</td>
<td>$25,829</td>
</tr>
<tr>
<td>August</td>
<td>$586,498</td>
<td>$637,587</td>
<td>$51,089</td>
</tr>
<tr>
<td>September</td>
<td>$711,747</td>
<td>$812,130</td>
<td>$100,383</td>
</tr>
<tr>
<td>October</td>
<td>$524,099</td>
<td>$532,939</td>
<td>$8,840</td>
</tr>
<tr>
<td>November</td>
<td>$524,404</td>
<td>$571,419</td>
<td>$47,015</td>
</tr>
<tr>
<td>December</td>
<td>$658,103</td>
<td>$653,420</td>
<td>$(4,683)</td>
</tr>
<tr>
<td>January</td>
<td>$557,752</td>
<td>$638,952</td>
<td>$81,200</td>
</tr>
<tr>
<td>February</td>
<td>$442,578</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>March</td>
<td>$568,669</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>April</td>
<td>$725,956</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>May</td>
<td>$602,505</td>
<td>$-</td>
<td></td>
</tr>
<tr>
<td>June</td>
<td>$704,185</td>
<td>$-</td>
<td></td>
</tr>
</tbody>
</table>

| Prior Year vs. Current Year Total | $7,247,120 | $4,512,900 | $309,673 |
MONTHLY BOARD REPORT  
FY2016 (July 1, 2015 to June 30, 2016) 

Grant Revenue

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual FY15</th>
<th>Budget FY16</th>
<th>Actual FY16</th>
<th>Inc/(Dec) from Prior Year to Current Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$98,061</td>
<td>$244,799</td>
<td>$128,685</td>
<td>$30,624</td>
</tr>
<tr>
<td>August</td>
<td>$96,946</td>
<td>$244,799</td>
<td>$145,446</td>
<td>$48,500</td>
</tr>
<tr>
<td>September</td>
<td>$160,962</td>
<td>$244,799</td>
<td>$223,878</td>
<td>$62,916</td>
</tr>
<tr>
<td>October</td>
<td>$167,516</td>
<td>$338,571</td>
<td>$203,353</td>
<td>$35,837</td>
</tr>
<tr>
<td>November</td>
<td>$126,083</td>
<td>$338,571</td>
<td>$134,896</td>
<td>$8,813</td>
</tr>
<tr>
<td>December</td>
<td>$123,492</td>
<td>$338,571</td>
<td>$235,833</td>
<td>$112,341</td>
</tr>
<tr>
<td>January</td>
<td>$101,591</td>
<td>$338,571</td>
<td>$390,639</td>
<td>$289,048</td>
</tr>
<tr>
<td>February</td>
<td>$106,716</td>
<td>$338,571</td>
<td>$141,554</td>
<td>$42%</td>
</tr>
<tr>
<td>March</td>
<td>$67,879</td>
<td>$338,571</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td>April</td>
<td>$124,015</td>
<td>$338,571</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td>May</td>
<td>$133,931</td>
<td>$338,571</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td>June</td>
<td>$455,192</td>
<td>$338,571</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,762,384</strong></td>
<td><strong>$3,781,539</strong></td>
<td><strong>$1,604,284</strong></td>
<td><strong>42%</strong></td>
</tr>
</tbody>
</table>

Prior Year vs. Current Year

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual FY2014</th>
<th>Actual FY2015</th>
<th>Actual FY2016</th>
<th>Inc/(Dec) from Prior Year to Current Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$81,096</td>
<td>$98,061</td>
<td>$128,685</td>
<td>$30,624</td>
</tr>
<tr>
<td>August</td>
<td>$127,744</td>
<td>$96,946</td>
<td>$145,446</td>
<td>$48,500</td>
</tr>
<tr>
<td>September</td>
<td>$195,614</td>
<td>$160,962</td>
<td>$223,878</td>
<td>$62,916</td>
</tr>
<tr>
<td>October</td>
<td>$113,711</td>
<td>$167,516</td>
<td>$203,353</td>
<td>$35,837</td>
</tr>
<tr>
<td>November</td>
<td>$150,353</td>
<td>$126,083</td>
<td>$134,896</td>
<td>$8,813</td>
</tr>
<tr>
<td>December</td>
<td>$102,402</td>
<td>$123,492</td>
<td>$235,833</td>
<td>$112,341</td>
</tr>
<tr>
<td>January</td>
<td>$112,085</td>
<td>$101,591</td>
<td>$390,639</td>
<td>$289,048</td>
</tr>
<tr>
<td>February</td>
<td>$123,056</td>
<td>$106,716</td>
<td>$141,554</td>
<td>$34,838</td>
</tr>
<tr>
<td>March</td>
<td>$221,112</td>
<td>$67,879</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td>April</td>
<td>$221,326</td>
<td>$124,015</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td>May</td>
<td>$137,177</td>
<td>$133,931</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td>June</td>
<td>$316,361</td>
<td>$455,192</td>
<td>$-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,902,037</strong></td>
<td><strong>$1,762,384</strong></td>
<td><strong>$1,604,284</strong></td>
<td><strong>(158,100)</strong></td>
</tr>
</tbody>
</table>
MONTHLY BOARD REPORT
NCRTD Expenses by Type
As of February 29, 2016
Year to Date Budget Variance 66.66%

Comparative Expenses by Type

<table>
<thead>
<tr>
<th></th>
<th>FY14 Actual</th>
<th>FY15 Actual</th>
<th>Budget FY16</th>
<th>FY16 Actual</th>
<th>Year to Date Budget Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Salaries</td>
<td>$1,764,308</td>
<td>$1,831,697</td>
<td>$2,773,718</td>
<td>$1,508,012</td>
<td>54.4%</td>
</tr>
<tr>
<td>2 Employee Benefits</td>
<td>$709,864</td>
<td>$830,082</td>
<td>$1,245,195</td>
<td>$673,884</td>
<td>51.4%</td>
</tr>
<tr>
<td>3 Health &amp; Wellness/Promotions</td>
<td>$-</td>
<td>$2,555</td>
<td>$7,500</td>
<td>$1,750</td>
<td>23.3%</td>
</tr>
<tr>
<td>4 Vehicle Maintenance, Repairs</td>
<td>$209,623</td>
<td>$281,344</td>
<td>$260,700</td>
<td>$226,848</td>
<td>87.0%</td>
</tr>
<tr>
<td>5 Utilities (phone, gas, electric, cell)</td>
<td>$38,486</td>
<td>$33,084</td>
<td>$51,751</td>
<td>$28,398</td>
<td>54.9%</td>
</tr>
<tr>
<td>6 Advertising</td>
<td>$61,715</td>
<td>$82,687</td>
<td>$100,842</td>
<td>$75,691</td>
<td>75.1%</td>
</tr>
<tr>
<td>7 Insurance (property, WC Ins, gen liab, vehicle, civ)</td>
<td>$87,589</td>
<td>$95,406</td>
<td>$115,196</td>
<td>$115,806</td>
<td>100.5%</td>
</tr>
<tr>
<td>8 Equipment &amp; Building Expense</td>
<td>$22,181</td>
<td>$36,443</td>
<td>$76,735</td>
<td>$98,912</td>
<td>128.9%</td>
</tr>
<tr>
<td>9 Office Expenses</td>
<td>$36,948</td>
<td>$37,336</td>
<td>$67,163</td>
<td>$39,902</td>
<td>59.4%</td>
</tr>
<tr>
<td>10 Operating Expenses</td>
<td>$15,024</td>
<td>$22,812</td>
<td>$23,820</td>
<td>$16,447</td>
<td>69.0%</td>
</tr>
<tr>
<td>11 Travel, meetings, lodging and per diem</td>
<td>$30,111</td>
<td>$34,092</td>
<td>$41,245</td>
<td>$14,805</td>
<td>35.9%</td>
</tr>
<tr>
<td>12 Contractual Services</td>
<td>$333,948</td>
<td>$352,779</td>
<td>$369,603</td>
<td>$123,759</td>
<td>33.5%</td>
</tr>
<tr>
<td>13 Audit</td>
<td>$23,219</td>
<td>$23,433</td>
<td>$27,000</td>
<td>$23,581</td>
<td>87.3%</td>
</tr>
<tr>
<td>14 Dues, Licenses and Fees</td>
<td>$5,826</td>
<td>$15,961</td>
<td>$15,765</td>
<td>$16,671</td>
<td>105.7%</td>
</tr>
<tr>
<td>15 Fuel</td>
<td>$410,199</td>
<td>$352,857</td>
<td>$495,903</td>
<td>$208,109</td>
<td>42.0%</td>
</tr>
<tr>
<td>16 Training &amp; Registration fees</td>
<td>$8,825</td>
<td>$9,087</td>
<td>$20,799</td>
<td>$3,941</td>
<td>18.9%</td>
</tr>
<tr>
<td>17 Railrunner, City of SF and Los Alamos</td>
<td>$4,387,272</td>
<td>$4,118,232</td>
<td>$4,447,190</td>
<td>$1,567,110</td>
<td>35.2%</td>
</tr>
<tr>
<td>18 Capital Expenses</td>
<td>$709,563</td>
<td>$374,409</td>
<td>$2,408,418</td>
<td>$676,437</td>
<td>28.1%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$8,854,701</td>
<td>$8,534,297</td>
<td>$12,548,543</td>
<td>$5,420,063</td>
<td>43.2%</td>
</tr>
</tbody>
</table>
## MONTHLY BOARD REPORT
**FY2016 (July 1, 2015 to June 30, 2016)**
### NCRTD BUDGET EXPENDITURES OVERALL
**As of February 29, 2016**

### Budget to Actual FY2015

<table>
<thead>
<tr>
<th>Month</th>
<th>FY13 Actual</th>
<th>FY14 Actual</th>
<th>FY15 Actual</th>
<th>Budget FY16</th>
<th>FY16 Actual</th>
<th>Inc/Dec of Budget vs Actual</th>
<th>Budget Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$355,735</td>
<td>$598,912</td>
<td>$546,007</td>
<td>$935,944.92</td>
<td>$273,848</td>
<td>$662,097</td>
<td>29.3%</td>
</tr>
<tr>
<td>August</td>
<td>$634,121</td>
<td>$511,240</td>
<td>$464,828</td>
<td>$935,944.92</td>
<td>$607,663</td>
<td>$328,282</td>
<td>64.9%</td>
</tr>
<tr>
<td>September</td>
<td>$724,752</td>
<td>$359,189</td>
<td>$313,124</td>
<td>$1,067,665.32</td>
<td>$249,172</td>
<td>$818,493</td>
<td>23.3%</td>
</tr>
<tr>
<td>October</td>
<td>$367,785</td>
<td>$341,082</td>
<td>$294,912</td>
<td>$1,067,665.32</td>
<td>$966,567</td>
<td>$101,098</td>
<td>90.5%</td>
</tr>
<tr>
<td>November</td>
<td>$977,721</td>
<td>$829,750</td>
<td>$783,580</td>
<td>$1,067,665.32</td>
<td>$709,030</td>
<td>$358,635</td>
<td>66.4%</td>
</tr>
<tr>
<td>December</td>
<td>$455,530</td>
<td>$675,551</td>
<td>$625,552</td>
<td>$1,067,665.32</td>
<td>$913,619</td>
<td>$154,046</td>
<td>85.6%</td>
</tr>
<tr>
<td>January</td>
<td>$422,342</td>
<td>$1,585,995</td>
<td>$1,534,559</td>
<td>$1,067,665.32</td>
<td>$1,026,524</td>
<td>$41,141</td>
<td>96.1%</td>
</tr>
<tr>
<td>February</td>
<td>$487,459</td>
<td>$534,985</td>
<td>$287,772</td>
<td>$1,067,665.32</td>
<td>$673,640</td>
<td>$394,025</td>
<td>63.1%</td>
</tr>
<tr>
<td>March</td>
<td>$573,082</td>
<td>$480,519</td>
<td>$429,154</td>
<td>$1,067,665.32</td>
<td>-</td>
<td>$1,067,665</td>
<td>0.0%</td>
</tr>
<tr>
<td>April</td>
<td>$905,718</td>
<td>$684,123</td>
<td>$1,339,437</td>
<td>$1,067,665.32</td>
<td>-</td>
<td>$1,067,665</td>
<td>0.0%</td>
</tr>
<tr>
<td>May</td>
<td>$2,563,210</td>
<td>$826,045</td>
<td>$934,795</td>
<td>$1,067,665.32</td>
<td>-</td>
<td>$1,067,665</td>
<td>0.0%</td>
</tr>
<tr>
<td>June</td>
<td>$292,818</td>
<td>$1,427,310</td>
<td>$1,300,982</td>
<td>$1,067,665.32</td>
<td>-</td>
<td>$1,067,665</td>
<td>0.0%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>8,760,274</strong></td>
<td><strong>8,854,701</strong></td>
<td><strong>8,854,701</strong></td>
<td><strong>12,548,543</strong></td>
<td><strong>5,420,063</strong></td>
<td><strong>7,128,480</strong></td>
<td><strong>43.2%</strong></td>
</tr>
</tbody>
</table>

3/30/2016 Unaudited financials-For Board and Management purposes/review
MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
Administration Expense Summary
As of February 29, 2016

Budget to Actual FY2014/FY2015 Comparative

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual FY14</th>
<th>Actual FY15</th>
<th>Budget FY16</th>
<th>Actual FY16</th>
<th>Inc/Dec of Budget vs Actual</th>
<th>Budget Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$99,342</td>
<td>$36,996</td>
<td>$111,744</td>
<td>$76,354</td>
<td></td>
<td>68.3%</td>
</tr>
<tr>
<td>August</td>
<td>$56,248</td>
<td>$65,796</td>
<td>$111,744</td>
<td>$154,434</td>
<td>($42,690)</td>
<td>138.2%</td>
</tr>
<tr>
<td>September</td>
<td>$77,618</td>
<td>$79,531</td>
<td>$114,302</td>
<td>$75,888</td>
<td></td>
<td>66.4%</td>
</tr>
<tr>
<td>October</td>
<td>$77,447</td>
<td>$107,450</td>
<td>$114,302</td>
<td>$114,095</td>
<td>$207</td>
<td>99.8%</td>
</tr>
<tr>
<td>November</td>
<td>$84,993</td>
<td>$92,871</td>
<td>$114,302</td>
<td>$72,212</td>
<td></td>
<td>63.2%</td>
</tr>
<tr>
<td>December</td>
<td>$63,622</td>
<td>$69,805</td>
<td>$114,302</td>
<td>$88,349</td>
<td></td>
<td>77.3%</td>
</tr>
<tr>
<td>January</td>
<td>$110,423</td>
<td>$82,409</td>
<td>$114,302</td>
<td>$113,515</td>
<td>$787</td>
<td>99.3%</td>
</tr>
<tr>
<td>February</td>
<td>$76,028</td>
<td>$114,696</td>
<td>$114,302</td>
<td>$96,686</td>
<td></td>
<td>84.6%</td>
</tr>
<tr>
<td>March</td>
<td>$72,862</td>
<td>$110,596</td>
<td>$114,302</td>
<td>$114,302</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>April</td>
<td>$83,438</td>
<td>$93,933</td>
<td>$114,302</td>
<td>$114,302</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>May</td>
<td>$102,701</td>
<td>$107,700</td>
<td>$114,302</td>
<td>$114,302</td>
<td></td>
<td>0.0%</td>
</tr>
<tr>
<td>June</td>
<td>$74,894</td>
<td>$165,099</td>
<td>$114,302</td>
<td>$114,302</td>
<td></td>
<td>0.0%</td>
</tr>
</tbody>
</table>

Total: $979,616 $1,126,883 $1,366,506 $791,533 $574,973 57.9%

3/30/2016 Unaudited financials-For Board and Management purposes/review
MONTHLY BOARD REPORT
FY2016 (July 1, 2015 to June 30, 2016)
Operating Expense Summary
As of February 29, 2016

Budget to Actual FY2014/FY2015 Comparative

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual FY14</th>
<th>Actual FY15</th>
<th>Budget FY16</th>
<th>Actual FY16</th>
<th>Inc/Dec of Budget vs Actual</th>
<th>Budget Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>July</td>
<td>$446,665</td>
<td>$165,544</td>
<td>$719,298</td>
<td>$197,494</td>
<td>$521,804</td>
<td>27.5%</td>
</tr>
<tr>
<td>August</td>
<td>$408,580</td>
<td>$411,069</td>
<td>$719,298</td>
<td>$448,110</td>
<td>$271,188</td>
<td>62.3%</td>
</tr>
<tr>
<td>September</td>
<td>$204,531</td>
<td>$415,730</td>
<td>$734,512</td>
<td>$173,284</td>
<td>$561,228</td>
<td>23.6%</td>
</tr>
<tr>
<td>October</td>
<td>$217,465</td>
<td>$1,168,758</td>
<td>$734,512</td>
<td>$785,951</td>
<td>$(51,439)</td>
<td>107.0%</td>
</tr>
<tr>
<td>November</td>
<td>$602,638</td>
<td>$275,448</td>
<td>$734,512</td>
<td>$579,144</td>
<td>$155,368</td>
<td>78.8%</td>
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<tr>
<td>December</td>
<td>$561,929</td>
<td>$205,224</td>
<td>$734,512</td>
<td>$705,378</td>
<td>$29,134</td>
<td>96.0%</td>
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<tr>
<td>January</td>
<td>$1,304,199</td>
<td>$393,437</td>
<td>$734,512</td>
<td>$785,516</td>
<td>$(51,004)</td>
<td>106.9%</td>
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<tr>
<td>February</td>
<td>$211,744</td>
<td>$753,200</td>
<td>$734,512</td>
<td>$277,216</td>
<td>$457,296</td>
<td>37.7%</td>
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<tr>
<td>March</td>
<td>$350,376</td>
<td>$811,276</td>
<td>$734,512</td>
<td>$734,512</td>
<td>$734,512</td>
<td>0.0%</td>
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<tr>
<td>April</td>
<td>$1,094,811</td>
<td>$819,256</td>
<td>$734,512</td>
<td>$734,512</td>
<td>$734,512</td>
<td>0.0%</td>
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<tr>
<td>May</td>
<td>$736,145</td>
<td>$432,325</td>
<td>$734,512</td>
<td>$734,512</td>
<td>$734,512</td>
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<tr>
<td>June</td>
<td>$1,022,562</td>
<td>$1,181,739</td>
<td>$734,512</td>
<td>$734,512</td>
<td>$734,512</td>
<td>0.0%</td>
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$7,161,646  $7,033,005  $8,783,719  $3,952,093  $4,831,626  45.0%

3/30/2016  Unaudited financials-For Board and Management purposes/review
## MONTHLY BOARD REPORT

**FY2016 (July 1, 2015 to June 30, 2016)**

**Capital Expense Summary**

**As of February 29, 2016**

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### Capital Expense Summary

<table>
<thead>
<tr>
<th>Month</th>
<th>Actual FY14</th>
<th>Actual FY15</th>
<th>Budget FY16</th>
<th>Actual FY16</th>
<th>Inc/Dec of Budget vs Actual</th>
<th>Budget Variance</th>
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<tbody>
<tr>
<td>July</td>
<td>$</td>
<td>$ 23,987</td>
<td>$ 104,903</td>
<td>$ -</td>
<td>$ 104,903</td>
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<tr>
<td>August</td>
<td>$</td>
<td>$ 47,975</td>
<td>$ 104,903</td>
<td>$ 5,119</td>
<td>$ 99,784</td>
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<tr>
<td>September</td>
<td>$ 30,974</td>
<td>$ 47,975</td>
<td>$ 218,851</td>
<td>$ -</td>
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<tr>
<td>October</td>
<td>$ -</td>
<td>$ 55,184</td>
<td>$ 218,851</td>
<td>$ 66,521</td>
<td>$ 152,330</td>
<td>30%</td>
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<td>$ 95,949</td>
<td>$ 2,194</td>
<td>$ 218,851</td>
<td>$ 57,674</td>
<td>$ 161,177</td>
<td>26%</td>
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<tr>
<td>December</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 218,851</td>
<td>$ 119,892</td>
<td>$ 98,959</td>
<td>55%</td>
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<tr>
<td>January</td>
<td>$ 119,937</td>
<td>$ 75,245</td>
<td>$ 218,851</td>
<td>$ 127,493</td>
<td>$ 91,358</td>
<td>58%</td>
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<tr>
<td>February</td>
<td>$ -</td>
<td>$ 54,185</td>
<td>$ 218,851</td>
<td>$ 299,738</td>
<td>(80,887)</td>
<td>137%</td>
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<tr>
<td>March</td>
<td>$ 5,916</td>
<td>-</td>
<td>$ 218,851</td>
<td>$ -</td>
<td>$ 218,851</td>
<td>0%</td>
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<tr>
<td>April</td>
<td>$ 161,188</td>
<td>$ 18,078</td>
<td>$ 218,851</td>
<td>$ -</td>
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<tr>
<td>May</td>
<td>$ 95,949</td>
<td>$ 47,993</td>
<td>$ 218,851</td>
<td>$ -</td>
<td>$ 218,851</td>
<td>0%</td>
</tr>
<tr>
<td>June</td>
<td>$ 203,526</td>
<td>$ 1,593</td>
<td>$ 218,851</td>
<td>$ -</td>
<td>$ 218,851</td>
<td>0%</td>
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</table>

| Total     | $ 713,439   | $ 374,409   | $ 2,398,318 | $ 676,437   | $ 1,721,881                | 28.2%          |

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3/30/2016 Unaudited financials-For Board and Management purposes/review
NORTH CENTRAL REGIONAL TRANSIT DISTRICT
FINANCE SUBCOMMITTEE

January 22, 2016
9:00 AM - 11:00 PM

Executive Conference Room
1237 N. Riverside Drive
Espanola, NM 87532

CALL TO ORDER: Councilor Pete Sheehy, Chair

Roll Call:

ITEMS FOR DISCUSSION/RECOMMENDATION

A. Draft Bylaw Amendments
   Sponsor: Anthony Mortillaro, NCRTD Executive Director and Peter Dwyer, Legal Counsel.
   Attachment

B. Compensation Study Results
   Sponsor: Anthony Mortillaro, NCRTD Executive Director and Daria Veprek, Human Resources Director.
   Attachment

C. CLOSED SESSION
   Closed session of the meeting pursuant to NMSA 1978, Section 10-15-1 (H) (5) regarding “collective bargaining” for the discussion of bargaining strategy preliminary to collective bargaining negotiations.

   Reconvene in Open Session: Possible action item(s) from closed session.

D. Mid-Year Budget Review
   Sponsor: Anthony Mortillaro, NCRTD Executive Director and Troy Bingham, Finance Director.
   Attachment

E. Quarterly Investment Report
   Sponsor: Anthony Mortillaro, NCRTD Executive Director and Troy Bingham, Finance Director.
   Attachment

F. Minutes
   None – No meeting in December, 2015

MATTERS FROM THE SUBCOMMITTEE

ADJOURN

If you are an individual with a disability who is in need of a reader, amplifier, qualified Sign Language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing of the meeting, please contact the NCRTD Executive Assistant at 505-629-4702 at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.
Finance Subcommittee
Meeting January 22, 2016
9:00 a.m.

Board Members Present: Councilor Pete Sheehey–Los Alamos County, Commissioner Miguel Chavez–Santa Fe County (Telephonic), Leandro Cordova-Taos County (Telephonic)

Staff Present: Anthony Mortillaro, Troy Bingham, Daria Veprek, Jackie Trujillo

Guest(s) Present: Peter Dwyer (Telephonic), Mike Swallow, David Calvin

Absent: Alex Naranjo–Rio Arriba County, Christy Van Buren-Ohkay Owingeh, Henry Roybal–Santa Fe County, Jon Bulthuis-City of Santa Fe, Country, Philo Shelton-Los Alamos County, Jim Fambro-Taos County, Tessa Jo Mascarenas-Santa Fe County, Thomas Campos-Rio Arriba County

Transcribed By: Jackie Trujillo-Executive Assistant

ROLL CALL

APPROVAL OF AGENDA

CALL TO ORDER

A regular Finance Subcommittee meeting was called to order on the above date by Councilor Sheehey.

ITEMS FOR DISCUSSION/RECOMMENDATION

A. Draft Bylaw Amendments

Mr. Mortillaro gave a brief overview on the draft Bylaw revisions and turned it over to Mr. Dwyer for the presentation.

Mr. Dwyer went on to explain the Bylaws needed to be reviewed and updated due to signed copies of the 2007 Bylaws could not be located. Referring to the red lined copy; the main purpose is to make sure all three documents jive which is to say the statues, intergovernmental contract and the Bylaws, and make sure the Bylaws accurately reflect what is presently done. Bylaws were written when RTD was developing, some of the thing that were put in the Bylaws were ideas that were important or good at the time but are no longer relevant; the Board is up functioning along with the entity so the time to make the Bylaws reflect the reality which is our day to day operations is now.

Mr. Dwyer continue to go through the red lined Bylaws adding the purposes are mostly drawn directly from state statue; he did cut and paste state statue for the purposes of clarify the document and then added for our own planning purposes, our vision statement, Long Range Strategic Plan, and Short Range Service Plan, etc. The issue on Supremacy of Establishing Documents is that we are a statutory entity, we have to follow state statute; as in the case of the forest service we get into some issues about the application of federal law to a state entity.

Mr. Dwyer did mention an incident regarding state to state relations between state entities; it is not abundantly clear how issues will be resolved when there is a conflict between federal government and state laws; the Feds
say that their law is supreme; although we have to follow state law for indebtedness, insurance, and our existence is due strictly to the state statute. Adding there are laws we need to follow because we are a state entity which was addressed in Article III (NCRTD recognizes its legal and contractual commitments to the federal government) recognizing them but did not put them in the pecking order of what is more important; which are State Statue, Intergovernmental Contract, then Bylaws. Referring to Article IV, Mr. Dwyer went through the state statutes, then took a look at all the powers the Board has, then reorganize the Bylaws from various sections to make them into a single list, which was then divided into Delegable, Non-Delegable Powers and Cooperative Powers. Items that are not changing is the Non-Delegable Powers as listed, those are powers that the Board has to exercise only, two in particular, are issuing bonds and real-estate transactions. Only elected members of the Board can make this decisions. Referring to the Cooperative Powers of the Board; we can enter into memorandum of understandings, memorandum of agreements and engage in cooperative powers with our various members.

Mr. Leandro Cordova entered the conversation via cell phone.

Mr. Dwyer gave Mr. Cordova a brief overview what was mentioned earlier of the Bylaws.

Mr. Dwyer moved on to Section 4.03 Taxation, adding we do not have direct tax authority under the statues. It is deceptive, as it is known that we do have a GRT increment which was passed and adopted specifically for us, but didn’t want to give us general tax authority like the County. A change was made to reflect the current status quo that we have a GRT increment, could be reapproved and if we could get rid of the sunset we could have permanent tax revenue. Article VI Membership; a debate was made at prior meetings/years when there was some conflict with the Board. The last direction that staff received; I remember Councilor Seeds from Española said they wanted to make the process as simple as possible and the consensus on the Board at that time was that anyone who was in the District boundaries who wanted to be a member should be allowed to be a member if they applied with no application process. At the direction of the Board it was set up this way. It does say that if you are in the District you can become a member by two thirds the majority vote; called up by statute, two thirds of a vote is mandatory. Another issue is leaving the District this is set up in the statute but in a vague fashion; reflection of what was said and what they mean; for example statute say “people who are adjacent to the District can join”. But fails to comprehend the notion that most people who join our District are within the District already. Their towns, municipalities and sub-governments within the four counties.

Mr. Dwyer went on to explain that he rewrote to acknowledge the reality of that if we want to add members it would be towns, villages, pueblos or tribes. He did clarify that you can join or leave the District; if you want to join the District you will have to go through the statutory process, have a public hearing and go through the notice, come to the Board, they will have to give you two thirds of the majority vote; if you want to leave the District; you may not avoid any legal or contractual obligations by joining or leaving the District, you will have to follow the existing Intergovernmental Contract; what this means is, people can leave the District but cannot take their portion of the GRT with them when they go; adding the GRT is for Regional Transit District, leaving is an option; leaving means not having to vote, not going to Board meetings and not participating. To remove the tax component it would have to be county wide decision, the entire county would have to leave the District and that tax wouldn’t be imposed on those counties and service will then not be made for those counties.

Mr. Mortillaro asked if you would take a vote of the constituency of the entire District to make that decision.

Mr. Dwyer answered he isn’t sure how it would be done, it would be extremely awkward, what happened to impose the taxes to those counties who asked the question on the ballot measure; presuming that some similar ballet measures would be required to do that but is not sure how it would be done. We would have to work with the State of New Mexico because once the tax is in place, he does not know if it can be removed. There is an expressed provision on the statute imposing the tax, not sure is there is something comparable about appealing it, just assume under the principles of fairness is if it required a vote to oppose it would require a vote to remove it as well. Something that will have to be taken up with the state; he also pointed out, nothing in the Bylaw allows
an individual member to override two thirds majority, this is because we are periodically amending the
Intergovernmental Contract to try and update it and add members, if two thirds of the Board votes a new
member join, if one member does not agree that a person cannot join they cannot override or veto the two thirds
majority simply by failing to sign the IGC. It is explicit that the two thirds majority rule. If you want to impose
additional requirement you can, although the last guidance received by the Board was that Board did not want
to. What is required is a letter of interest from the parties interested and a simple requirement for a public
hearing with a two weeks’ notice where the member goes to the public and says if we should join; a public
hearing is done they then come back yes or no we vote them up or down, two thirds. Mr. Dwyer moved on to
Powers of Members; this is statutory, a reparation of the Statutory Power; added on is the ex-officio the power of
the ex-officio as a nonvoting person who can come and monitor.

Mr. Dwyer moved on to section F; Members may request that the District provide reports and attend meetings
and coordinate the District’s planning and activities with member. This is something Tony does; if Santa Fe,
Los Alamos whomever they request Tony will go to their meetings and coordinate our Long Range Plan with
them; the law and the conception with that is we are the bigger entity we cover the entire region and others are
supposed to submit their plans to us, to make sure they jive with our plan; Tony is willing to work with other
members. Referring to the second sentence; will make reasonable efforts to accommodate individual Member
requests and make reciprocal requests where appropriate; the law indicates what should be happening is the
individual plans should be submitted to the NCRTD and the NCRTD needs to make sure all the plans jive.

Mr. Dwyer moved to Article VIII; Additional or Withdrawal of Territory; this section is about adding and
subtracting numbers; the Board reserves the authority to deny application and condition to approval; this goes
with the prior section which goes by adding and subtracting people from the District not land; no vision of
adding land to the District anytime soon; withdrawing from the District is withdrawing from state statute; the
thing to note is, provision from withdrawal shall be negotiated and agreed to by the Board of Directors,
members and the Commission; ultimately if a member wants to take some of the buses or wants to strike some
sort of deal that will have to be negotiated at that time; the state commission authorizes the districts, they will be
there to moderate between the member and the District, to be reasonable and to try to do the right thing.

Mr. Mortillaro added that is a State Transportation commission.

Councilor Sheehey asked if you have previously defined what the state transportation commission is.

Mr. Mortillaro repeated the state law define; is there a definiti
on in the state law of what the commission is.

Mr. Dwyer replied; commission means the state transportation commission 73- 25-3D, it is defined term.

Mr. Dwyer referred to the Powers to the Board, adding he cleaned it up by integrating them; talking about the
power of the District saying; the Board has all the power and the Board can delegate some of its power. Listing
powers that are delegable and which ones are not. Moving on to Selection of Directors; what was done
historically is people select directors and alternates and they send us an indication in writing and we accept it to
be true, adding this is the best way to do it because the tribes and pueblos do not have the same kind of open
government and requirements as the typical municipalities and counties; for this they should not follow the
same as process as a city or county would follow; we will take them at face value, if they say they approve their
appointed Director, we will accept that.

Mr. Dwyer asked Mr. Mortillaro if the Pueblos send us a letter or something saying this person is going to be
our Director.

Mr. Mortillaro replied yes, adding a number of times the people they appoint are not a
Governor or a council member; sometimes they are former governors or employees of the tribal government;
the Board has never enforced the issue.
Mr. Dwyer added it is working fine the way it is but the Rule of Alternates had not been called out; what has been done and works well is to designate one person who is the point person and one alternate; discussion has been made in the past about having multiple alternate and the Board and the staff have resisted that say we only need one person who is your director, if that person cannot show up, then there should be one alternate. It shouldn’t be a floating thing where we do not know who we are dealing with and the person changes all the time; alternate members are just the same as the director; if the director is absent the alternate has all the same power as the director except the two described powers of bonding and real state.

Further discussion continued on this matter.

Mr. Dwyer moved on to Conflicts of Interest were integrated with the current policy; Conflicts of Interest are addressed once a year by asking people to do a disclosure statement the other portions of this are the state law and he tried to integrate other acts of state laws; if the Board is interested we can do training in the future about legal ethics and ethics of public bodies, which would be worth doing being that members in the Board isn’t versed in the conduct act and there are other laws that apply to the Board that we need to comply with that members are not aware, particularly the tribes and pueblos. On Performance and Duties he added a paragraph that we want to restrict the use of the NCRTD authority and letter head to actions that were taken by the Board as a whole. Images or logos should not be used to make statements unless the Board has taken action on it. Some leeway is there; as the chair will have to periodically have to write letters on behalf of the RTD on Mondays as well as Tony as the Executive Director would to. Mr. Dwyer explained do not appropriate the NCRTD logo or letter head and use it for individual actions where the Board should be making that decision. Changes were made on Performance Review may look substantial but change was made to the way it is, which is the way it works right now.

Mr. Mortillaro corrected Mr. Dwyer to refer to section 9.01 relates to Board Member Attendance.

Mr. Dwyer went on to say this is the one instead of having rigid enforcement has been deleted out; in April a report of attendance is made and it is up to the Board; if the Board wants to take action, the Board has the authority.

Further discussion continued on this matter.

Mr. Dwyer moved on to Article X, Officers; discussion was made that changes of Officers of the Board can be made; presently there are more officers than needed. The statue are all clear on this as well as the IGC; the only problem with changing it is we would have to go back and change the IGC as well as it has language. Changing of the officers can be cumbersome; there is a process for the removal of officers it has never happened but it is an option; noting that it is important to know that if we fill a vacancy and if someone doesn’t get re-elected and their seat gets filled by someone else it is only until the next election of officers. Moving on to Article XI, Meetings of the Board; the entire meeting schedule is approved at the beginning of the year, when the meetings act is approved; there is a authority for meeting to be moved around, clarifying that meetings need to be done in ADA accessible space and handicap accessible. The voting is clarifying that we have the voting units and need the majority total number of votes and the voting units.

Mr. Dwyer explained the difference between Public Hearings and Public Meetings; public hearing are required by a state statue, for zoning matter and since we do not do zoning therefore we do not hold public hearings; most of our decisions do not require public hearings. We extensively have public provisions on the Board rules in which the public are allowed to speak on any agenda item; then there will be a vote. Public meeting in which the Board decides legal matters. Place of meetings; required by the open meetings act that there is adequate telecom to be able to hear and speak at the meetings; Notice of Meetings have been changed; in the beginning of the year a calendar is adopted; do open meetings act, resolution and can call or move special meetings.
Mr. Dwyer moved on to Agenda Items; if someone wants something on the agenda they talk to the Chair and it goes on the agenda; a provision, upon a written request of any eight Directors, a rolling quorum outside of the presence of an open meeting; if eight Directors wanted something on the agenda, a vote is made before the meeting, in which is illegal under the meetings act; a change was made to say, if any Director wants an item on the agenda the Chair can put it on the agenda, although if the Chair refuses, at an open meeting a vote can be made and be forced on the agenda; an eight member vote has to be done to move to have it on the following agenda; vote on it and the Chair would be overwritten; eight member votes have to be done at an open meeting. Closing of the meeting would have to be roll call votes going into and coming out and stating that no action was taken.

Advisory Committee, Article XII; all committees are Advisory Committees and the Board can form any kind of committee; reflecting on two committees are the Finance and Tribal; the Legislative committee was deleted; consultation with the lobbyist would need to be done to start a Legislative committee; Citizen Advisory Committee had never been formed or met and is not a standing committee for NCRTD.

Councilor Sheehey mentioned that we have a Sustainability Sub Committee.

Mr. Mortillaro confirmed there is a Sustainability Sub Committee created by the Board thru resolution; has a charter, rules and regulations and should be added.

Mr. Dwyer said he will add section C, language to indicate that we have the Sustainability Sub Committee.

Mr. Dwyer moved on to explain the Chairs functions.

Mr. Dwyer moved to General Provision; mentioned we do follow the state fiscal year and acknowledge that we also follow the federal fiscal year, as well; we do not use it for budgetary purposes but do track it. Ownership of Documents; mentioned the chapter and said will follow those laws.

Mr. Dwyer referred, Annual Budget to Tony and Troy adding we have a good process for budget and audit propagations and hope that the section reflects to what is currently done and that is what the Board wants.

Mr. Mortillaro confirmed it does reflect what the current budgetary process and also ties back to the financial policies.

Councilor Sheehey asked if anyone had any questions: asked to entertain a motion to recommend for the adoption of the Bylaws and add that Sustainability Sub Committee for by the Board.

**Commissioner Chavez made a motion to approve the Bylaw amendment that was discussed. Mr. Cordova seconded the motion and it passed by unanimous voice vote.**

Mr. Dwyer exited the meeting.

**B. Compensation Study Results**

Mr. Mortillaro began to explain the Compensation Study which is done every two to three years; the last study was done in 2013 before that was 2007, which was the first time we had an Employee Compensation Plan. Adding the consultants selected to undertake this analysis are Personnel Systems and Services who have undertaken our past studies for the district.

Mr. Mortillaro introduced Mike Swallow and David Colvin form Personnel Systems and Services.
Commissioner Chavez asked; how many employees do we have in the non-bargaining unit.

Mr. Mortillaro answered approximately 16-17 employees non-represented and the balance would be in the Collective Bargaining Unit except for any employees that are temporary or rider drivers; roughly forty eight employees;

Mr. Mortillaro turned the presentation over to Mr. Swallow.

Mr. Swallow highlighted parts of the report that was printed in the packet starting on page 30; noting a full exercise undertaken, three years ago, was to address perceptions worth, job valuing; employees were invited to respond to a survey and they identified what they perceived to be worth of work priorities and established a preference for those.

Furthered discussion continued on this item.

Mr. Swallow moved on to page 34; referencing a listing of all the job allocations and the point system; eliminated are the paid grades from the last report since we went on to a market driven methodology that allows the points to represent dollars directly from the market place. If a minor change is made on a job and it reflects upon difficulty of work, the points will be fine-tuned and would result in a change of compensation for the position.

Mr. Swallow asked if there were any questions.

There were none.

Mr. Swallow moved on to page 35, 36 and 37 where the data details of the locations and their contributions to the database; have a number of local and government localities, similar organizations of RTD’s across the country a cross section of where your competitors are and where the need to pursue comparability.

Mr. Swallow asked for any comments, thoughts or questions about the data itself or lines of information.

Mr. Swallow mentioned the information on page 35; the approach to the analysis is to make the assumption up front that the rest of the world we are comparing to agrees to how we value our jobs and made an explanation of the evaluation points and values.

Furthered discussion continued on this item.

Mr. Swallow moved on to page 38, regression results is a reference to the statistical process we use to make heads or tail as how we relate to the market; this page feeds into the following pages in the packet with graphs.

Mr. Swallow continued to explain the following graphs on pages 39 thru page

Mr. Mortillaro explained based on our system, employees have the opportunity to progress in the pay range based on performance, their rate of progression tends to reflect their performance; the pay performance has been in place for several years.

Further discussion continued on this item.

Mr. Colvin gave a brief overview on a survey of reviews for Executive Director’s compensation survey and the entities comparison.
C. Closed Session

Mr. Mortillaro noted the data presented was for the non-represented and represented and asked if the Sub Committee could make a motion to go into closed session and at that point discussion can be made about the represented.

Mr. Cordova made a motion to go into closed session and Councilor Sheehy seconded the motion and it passed by unanimous voice vote.

Commissioner Chavez made a motion to go into executive session pursuant to NMSA 1978, Section 10-15-1 (H) (5) regarding “collective bargaining” for the discussion for bargaining strategy preliminary to collective bargaining negotiations and it passed by unanimous voice vote.

Commissioner Chavez made a motion to reconvene to open session and stated that no action was taken and Mr. Cordova seconded the motion and it passed by unanimously by voice vote.

Mr. Mortillaro asked for some direction from the Finance Sub Committee as to the non-represented compensation information for the study that was done, as well as the Executive Directors survey study; asking if it is the desire of the committee to forward that information to the Board for presentation and discussion and if the decision that has to be made is if there is a desire to implement the results now or wait till the 2016 budget.

Commissioner Chavez replied, being that we have the current compensation study and results, it should be presented to the Board in the anticipation of the budget coming up and will have enough time to see where we want to invest our dollars in the salary increases on the nonunion employees.

Councilor Sheehy asked if Commissioner Chavez would make a motion to present the compensation study results to the Board in a recommendation to consider when and how much to implement as part of the budget discussions.

Commissioner Chavez made the motion and Mr. Cordova seconded the motion and it passed by unanimous vote.

Mr. Cordova, Mike Swallow and David Colvin exited the meeting.

D. Mid-Year Budget Review

Mr. Bingham explained in the finance policy a mid-year performance vs. budget review is required to the Board. Referencing graphs presented on page 51 (revenues), a short fall of revenue $760 thousand dollars, not a bad thing, short fall is that we will not use the fund balance that was planned for during the budget process to use prior year revenues profits and use that for District budget needs. The GRT and other revenues are doing well, our expenditures are lower than projected, so we don’t expect to need to use $688 thousand we projected in this budget cycle for this year; short falls in the revenue are federal revenues related to capital we can’t get to the project completion quick enough to get reimbursed in this fiscal year, we won’t lose out on the money, it will go on to next fiscal year; miscellaneous revenue and fares are doing well; member contributions for these various routes are doing better than projected.

Mr. Bingham moved on to page 54, individual counties, how are they performing and where are we coming up with these better than projected GRT numbers; we have a five year monthly expectation for each one of the counties that we serve; the five year data is able to help us project what we have for the budget for the fiscal year, if we are performing better than that this is the time that shows that; Los Alamos County is hard to predict,
some months its up over our projections and some months they are below; for the first five months of the year they are showing over 20% over our expected budg
et, we didn’t want to put that number forward; took the lowest number possible 10%, their lowest increase which happened in July and projected that for the rest of the year; if you use that they will come in $190 thousand more then what we budgeted.

Mr. Mortillaro asked Councilor Sheehey if he wanted to make comments about the revenues in Los Alamos.

Councilor Sheehey indicated that the unpredictability is tied to the federal budget spending; the non-federal spending such as the occupancy tax revenue from tourism has been up. The general trend is increasing

Mr. Bingham moved on to talk about Rio Arriba County, they have two months below our projections; they are cyclical, we see that they do that every two to three years; we want to be conservative with Rio Arriba County putting them at a 3% over projection for the next six months which will give us a $15 thousand dollar revenue surplus, more then what we budgeted and still an increase.

Mr. Bingham moved on to talk about Santa Fe County, whatever revenues we get over and above our projected budget gets split in half with Rio Metro and the Rail Runner; they had one month under, keeping in mind they are our largest GRT contributor; when they are under our budgeted projection that is usually more of a hit then our other counties; overall we saw a 3% average increase for them; projected a 3% in the future which will give us $133 thousand more than we had budgeted.

Mr. Bingham moved on to talk about Taos County, they are showing constant increases; they are at a 27% above budget; pulled the most conservative number which is the 9% which is the lowest that occurred in August; they are showing incremental increases from the last one to two years; the $131,560 is a conservative low estimate of budget surplus, there will be a budgeted surplus of at least $131 thousand; which could be related to the Taos Ski Valley initiative that the state has done for the tax improvement district.

Mr. Bingham noted Federal revenues, the reason we are short falling is because we are not able to spend the capital dollars that have the 80/20 reimbursements from the Feds; the expenditures act differently depending salaries predictable it is month to month, we are fully staffed; the December payroll was used to try to project that out for the year; we had open vacancies for the first six months of the year; we are projecting close to a $700 thousand dollars of attrition savings of what we budgeted; we budgeted based on pay raises because performance reviews are up, people leaving we don’t know in the future; that number is volatile the $700 thousand dollars could be $500 thousand dollars in savings but it could be $900 thousand dollars of savings; other expenses were projected on half a years’ worth of data; we will be under on fuel by $130 thousand and will be over on vehicle maintenance; vehicle maintenance is huge, but until we get the new buses which then repairs are under warranty will hopefully decrease our current trend of vehicle maintenance expenses..

Mr. Bingham moved on to page 59, Capital Expenses; we will be receiving six busses in the next thirty days, half a million dollars will have to be used to purchase the busses and then seek for reimbursement; these projections were not based on that information, this information was received 24 hours ago; this had a more conservative approach in getting those busses in a more strung out matter; the timing on how it happens is going to be different.

Mr. Bingham asked for any in depth questions or ideas that have not been incorporated or talked about today can be addressed but would like to move this forward for Board information for the following month and let them weigh in on what their seeing.

Councilor Sheehey asked if anyone had any questions or would want to make a motion to pass this on to the Board.

Commissioner Chavez made a motion to forward this mid-year budget review to the full Board.
Commissioner Chavez asked if this item will be reviewed at the next Board meeting; reason asked is if more time is needed and you need to skip an agenda, advise the board so that it fits to your schedule and/or routine.

Mr. Mortillaro mentioned the only change would be the impact of the six new busses arriving may have; if it has any influence on Troy’s projections.

**Councilor Sheehey seconded the motion and it passed by unanimous voice vote.**

**E. Quarterly Investment Report**

Mr. Bingham mentioned we implemented the new strategy of investment policy we talked about over the last six months; we have a new vendor, LPL Treasury Securities; it is what the bank LANB and 1st National Bank of Santa Fe use to go out and buy treasuries when looking to collateralize public accounts to their own constituents; we have taken advantage of LPL financials and bought US treasuries securities, a one year at $750 thousand dollars and a nine month at $250 thousand dollars, we are in $1 million dollars; this opens us up to a new world of secondary markets; we can cash out at any given time or let the actual maturity of these occur; the interest rate are based off of the current treasury notes; we’ve increased our rate of return to 46% for our investments; overall one-year treasury securities returns are greater due to the change by the Feds in December to raise interest rates are out pacing us because they are at 49-65% for a one year treasury; we are running into maturity risk which we are invested in the CD’s that are locked in on old rates before the interest rates changed in December; as long as LANB continues to offer only a forty bases point one year CD our overall rate of return is not going to change dramatically; we should be hesitant to go fully with LPL securities cause it creates a lot of accounting work because you have to do mark to market with these types of treasuries; a new strategy has been implemented, we have money to invest; anticipating putting another half million dollars out of the checking account into the LGIP to hold on to until the new busses are paid; searched for Credit Unions that offered 40 bases points; we picked up Sandia Credit Union and Guadalupe is now offering one hundred bases points/seven month CD, since they do not collateralize we can only go $250 thousand with them.

Mr. Bingham asked if anyone has any suggestions or know what their county is performing to let him know and he will be more than happy to look into those; the best we can be doing is 46 bases points.

**Commissioner Chavez made a motion to forward the Quarterly Investment Report to the full Board, Councilor Sheehey seconded and it passed by unanimous voice vote.**

**F. Minutes**

None – No meeting in December 2015

**MATTTERS FROM THE SUBCOMMITTEE**

Commissioner Chavez suggested Troy to meet with Santa Fe County Treasure Patrick Barela; he might want to share what they are doing with their investment policy; they are in the process of updating their policy and recommends Troy to meet with the Treasure and see what they have on their radar.

**ADJOURN**

Councilor Sheehey adjourned the meeting.

Next Finance Subcommittee will be held February 26, 2016 at 9:00 AM.
EXECUTIVE REPORT  
For March 2016

EXECUTIVE

- Presented annual report to Los Alamos County Council.
- Presented annual report to Rio Arriba County Commissioners with Chairman Dan Barrone.
- Commenced development of FY 2017 budget and conducted budget meetings with staff.
- Continue to participate in weekly La Cienega route planning.
- Reviewed tribal MOA’s with Nambe Governor and Tribal Attorney.
- Staff and I meet with Santa Clara representatives regarding various tribal funding issues.
- Staff and I meet with Santa Fe National Forest representatives regarding the Mountain Trail route SUP and insurance issues.
- Participated in discussions with Senator Udall’s staff and Santa Fe National Forest.
- Participated in audit service selection process and interviews.
- Participated in daily conference calls with TSA regarding Belgium incidents and implications for security for transit agencies, security posture and intelligence update.
- Meet with Town of Taos regarding the exploration of TIGER funding opportunities.
- Participated in quarterly technology review with Steady Networks.
- Conducted orientation for new City of Santa Fe Board member, Councilor Joe Maestas.
- Developed talking points summary and brochure for DC Legislative Visit.
- Attended APTA Annual Legislative Conference in Washington, DC.
- Meet with New Mexico Federal Delegation members in Washington, DC.
- Participated in interviews for Transit and Facilities Operations Director.
- Continued review and discussion of outstanding site property issues with Attorney and staff.
- Finalized staff performance evaluations.
- Attended monthly MPO TCC meeting.
- Attended via conference call SWTA Board meeting.
- Attended via conference call APTA Small Operations Committee.
- Attended via conference call APTA State Affairs Committee.
- Attended NMTA monthly Board of Directors meeting.
- Met with Attorney and Staff regarding various legal issues and associated documents.
- Prepared Board and Finance Subcommittee meeting materials.
- Met weekly with Board Chair Barrone on various issues.
- Continued review, revision and creation of various NCRTD policies.
- Maintained continuous communication with board members, subcommittee members, and Chair.
- Attendance at various NCRTD staff and subcommittee meetings, including Board, Finance and Tribal subcommittees meeting.
- Addressed a variety of employee human resources issues and prepared memorandums to document district actions.
**MARKETING/PUBLIC INFORMATION OFFICE**

- Created and launched NCRTD Facebook, Instagram and Twitter accounts.
- Developed and implemented a social media content calendar and created plans for monitoring all comments.
- Attended the APTA Marketing and Communications Workshop in Phoenix.
- Prepared for the launch of the La Cienega route. Wrote and disseminated press release, rider notice and route map/schedule brochure. Developed New Mexican ad which ran April 1. Posted public notice and schedules in and around La Cienega Valley.
- Attended a Folk Art Market meeting to present NCRTD’s role in funding the Santa Fe Trails shuttles for the Market.
- Met with Chris Munoz, owner of LMNOC Broadcasting.
- Attended Rio Arriba County Commission meeting with Anthony Mortillaro and Chair Barrone.
- Provided updates to NCRTD.org throughout the month. Developing informational pages for seniors and veterans.
- Analyzing trends and conducting research of other transit agencies to evaluate opportunities for marketing and social media.
- Assisting the Finance department in payment vouchers.
- Worked to finalize the questionnaire for the 2016 Rider Survey which will be conducted by Research and Polling out of Albuquerque.
- Scheduled an April 13 presentation to the Nambe Senior Center.
- Completed my FY2017 Public Information Office Budget.
- Began work to develop a series of tourism rack cards for spring distribution. To be completed by the time I present at the Bienvenidos training for the Santa Fe Chamber of Commerce.
- Participated in a series of La Cienega planning meetings throughout the month.
- Wrote and disseminated press releases on the added bus for Chimayo on Good Friday, RTD providing free rides for Vets on premium routes and the La Cienega launch.
- Rider alerts were issued regarding Taos Pueblo service during time of construction, end of service seasons for Mountain Trail, Taos Ski Valley and Veterans program.
- KDCE – 950 AM radio in Espanola, 30 sec radio spot and sponsorship of the 7:30 AM news ran 17 days in March excluding Saturdays and Sundays.
- KSWV 810-AM in Santa Fe, 30 sec Mountain Trail spots ran 20 times in March as well as 30:20 sec promos announcing RTD sponsorship during the 7:30 AM ½ hour.
- KTAOS 101.9 FM in Taos, 14:30 sec radio spots ran each week in March.
- A series of 30-second spots in English and Spanish ran on KXMT in Taos.
- Two banner ads ran in March in the Santa Fe New Mexican. Two banner ads ran in the Taos News and Los Alamos Monitor. Two 1/8 page ads ran in the Rio Grande Sun.
- A series of digital ads ran on SantaFe.com, Santa Fe Hometown News, Los Alamos Daily Post and Valley Daily Post. Ads also continued running on the Taos News website as well as in Google searches in the Taos County area.
- An ads ran in the Chama Valley Times. There was no ad in the Green Fire Times this month.
SERVICE DEVELOPMENT

- February 2016 5311 Ridership Report
- ITS AVL/CAD project work including:
  - Oversight of ongoing tweaks and improvements to schedule, routing and map
  - Continued data entry input and oversight, emphasis on trigger boxes and angles of entry
  - Participated in FAST ridership webinar
- TAP FY14 and FY15- contract awarded to Allied 360 Construction, LLC, awaiting NMDOT and FHWA approval; anticipated construction start date April 11, 2016
- TAP FY15 and future- On-call engineering contract awarded to Wilson & Company pending NMDOT and FHWA approval
- Continued discussion with Santa Fe National Forest about Mountain Trail route and ROW, use of Federal lands, bicycle transport, special use permit
- Transit Planning 4 All grant application completed and submitted
- Continued discussion with Jicarilla Apache Nation representatives regarding transportation needs and requested service; prepare to apply for Tribal Transportation Program funding for new transit service
- Research and preparation in anticipation of applying for TIGER VIII funding opportunity; attended TIGER webinar
- Met with Santa Clara Pueblo to discuss TrAMS, TTP awards, possible future funding opportunities
- Attended APTA press briefing related to Uber and Lyft
- Created UZA map to demonstrate rural areas within NCRTD service area
- Repeated communication and coordination with VA Clinic in Santa Fe to locate a new bus stop that will be served by 260 La Cienega

OPERATIONS

- Working with management team on La Cienega route planning and route timing
- Successfully launched La Cienega Pilot Route.

HUMAN RESOURCES

- Celebrated Birthdays and Anniversary Day on Wednesday, March 9.
- Fun Committee Meeting on Thursday, March 10.
- Coordinated with the Fun Committee Leaders, the To Get to Know You Contests. Raffled out 5 winners!
- Coordinated Above and Beyond Raffle Winners for March.
- Attended In State Training: NM SHRM Annual Conference on Mar 7-Mar 9
- Conducted Interviews for the Transit and Operations Director position. Filled position.
- Prepared Job Announcement for the Maintenance and Facilities Manager position and posted on various sources.
- Completed budget draft for the Human Resources Department.
Performance Measures

for

Fiscal Year 2016

February 2016
Performance Measures for Fiscal Year 2015

The performance measures that were developed are designed to provide data that can be evaluated in a logical manner. It allows the District to identify areas in which its performance may need to be improved and to understand the characteristics and factors that impact that performance. In addition, to the extent feasible a peer comparison or a benchmark has been included as available or appropriate. This performance data is important since many times the District’s costs, efficiencies and productivity is not measured against any benchmark or standard or attempts are made to compare it against systems that bear no similarities in mission, complexity or service area. Therefore, the data presented should provide some context in which to assess the District and its efforts to deliver services based upon its mission, goals and objectives.”

The report data collected is grouped into 3 areas: Administrative, Fleet and Customer Related:

1. Administrative:
   A. Ridership, All Funded Routes
   B. Ridership, NCRTD Operated Routes
   C. Monthly Expenditures
   D. Cost Per Mile
   E. Cost Per Trip

2. Fleet:
   A. Vehicle Back Up Ratio
   B. Average Vehicle Age
   C. Percentage of “On-Time” PM / Inspections
   D. Accidents, Major/Minor Tracking

3. Customer Relations:
   A. Complaints
   B. Incidents

The In-state/local comparable is Sandoval/Valencia Counties which are operated by the Rio Metro Regional Transit District. This benchmark/peer entity was chosen since they are within New Mexico and somewhat similar to rural transit service. The FTA benchmarking data used originates from the Rural Transit Fact Book 2014. The data is for 2012 in FTA Region 6, rural providers which includes New Mexico, Texas, Oklahoma, Arkansas and Louisiana.
Ridership Tracking of All NCRTD Funded Routes

Tracking ridership is the #1 way a public transportation agency can gauge its effectiveness of the service it provides. Ridership data for all routes funded by the NCRTD are collected by City of Santa Fe and Los Alamos County. This data is forwarded and combined with the data from the District’s operated routes. These numbers are then compiled into a monthly ridership report. This measurement tracks the number of one way trips taken on all the routes within the district. This graph shows the NCRTD combined total ridership numbers, and compares them each month, identifying any increases or decreases in the number of monthly trips. This also indicates how well the regional district is continuing to address the issue of accessible mobility by routes that are in areas where there is public demand. Sandoval/Valencia counties are used local/in-state comparison benchmark, as they are similar in service but smaller in size: a two county service of the Rio Metro Transit District.

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<th></th>
<th>July</th>
<th>Aug</th>
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<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>April</th>
<th>May</th>
<th>June</th>
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<tbody>
<tr>
<td>FY 13-14</td>
<td>48,552</td>
<td>49,624</td>
<td>49,034</td>
<td>46,976</td>
<td>37,369</td>
<td>36,320</td>
<td>40,271</td>
<td>40,871</td>
<td>44,627</td>
<td>44,335</td>
<td>43,930</td>
<td>39,934</td>
</tr>
<tr>
<td>FY 14-15</td>
<td>46,374</td>
<td>50,295</td>
<td>46,680</td>
<td>47,164</td>
<td>34,702</td>
<td>35,509</td>
<td>37,422</td>
<td>40,320</td>
<td>43,563</td>
<td>39,195</td>
<td>37,447</td>
<td>43,676</td>
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<tr>
<td>FY 15-16</td>
<td>45,989</td>
<td>42,682</td>
<td>52,575</td>
<td>52,528</td>
<td>40,393</td>
<td>41,584</td>
<td>40,794</td>
<td>39,780</td>
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</tbody>
</table>
This ridership data is collected by the NCRTD drivers for all routes operated by the District. This includes 20 fixed and commuter routes as well as the demand response routes. Totaling the number of one way trips on NCRTD routes, allows staff to evaluate effectiveness and to ensure that the service is reaching areas in the district that have high demand for accessible mobility. Sandoval/Valencia counties were selected as a local/in-state comparison benchmark.

**Performance Measure - Administrative:**

**Ridership Tracking of NCRTD Operated Routes**

[Graph showing ridership tracking over different fiscal years (FY) and months]
The NCRTD’s Finance Department provides the administrative and operating expenses in a monthly budget status report. It is important to measure the expenditures to maintain a balanced budget, as well as tracking the administrative and operating margins. This data is used in determining the cost per trip and the cost per mile. Tracking the budget and monitoring operational costs allows management to target specific dollar amounts when creating future budgets and requesting federal funding from the NM Department of Transportation.

### Monthly Expenditures for Administrative and Operating

**Performance Measure - Administrative:**

### Monthly Expenditures FY 13-14
Cost per vehicle mile is the total operating costs per month in relation to the total vehicle miles per month traveled on NCRTD routes. The mileage data is logged daily for each route and compiled into a monthly report. Monthly operating costs are obtained from the Monthly Expenditures (chart above) and the number of miles travelled for NCRTD operated routes. As a cost efficiency measure, operating costs per vehicle mile assesses the financial resources needed for the District’s route operations. This measurement is a beneficial tool for the planning and operation’s departments. The NM Department of Transportation uses this as one of their performance measures in the state-wide transit guide published annually. Additionally this is used when NMDOT evaluates a transit system for the state-wide awards of 5311 funding. This is a management tool to track our cost per mile vs. the amount of budget being spent to operate a particular route as well as collectively for all routes. Sandoval and Valencia counties’ annual average are used as a local/in state comparable benchmark, even though their system is smaller than NCRTD. Data from the 2014 Rural Transit Data Fact Book, specifically FTA’s District 6 (our district) annual cost per mile is included as a benchmark. *This Data from 2104 Rural Transit Data Fact Book has been revised for the FY15 year.
When transit data is collected, passengers, riders and rides are counted and referred to as “trips.” One passenger can generate several trips in a day, and these are counted individually. Example, a particular rider may board in Questa (1 trip) and transfer to the Taos to Espanola bus (1 trip) and again transfer to the Santa Fe bus in Espanola (1 trip) for a total of three trips. The cost per trip is computed on a monthly basis by dividing the monthly operating costs from the Monthly Expenditures (chart above), by the total monthly number of trips (ridership). NM Department of Transportation uses this as one of their performance measures to the state-wide transit guide published annually. Additionally this is used when NMDOT evaluates a transit system for the state-wide awards of 5311 funding. This is a management tool to track our cost per trip vs. the amount of budget being spent to operate a particular route as well as collectively for all routes. Sandoval and Valencia counties’ annual average are used as a local/in state comparable benchmark, even though their system is smaller than the NCRTD. Data from the 2014* Rural Transit Data Fact Book, specifically FTA’s District 6 (our district) annual cost per trip is included as a benchmark. *This Data from 2104 Rural Transit Data Fact Book has been revised for the FY15 year.
Spare Vehicle Ratio/Combined all Vehicles

FTA defines the spare ratio as the percentage of spare vehicles in comparison to the number of vehicles required for annual maximum service. Recommended FTA spare vehicle ratio is 20% for fleets over 50 vehicles. NCRTD’s fleet totals 51 and is exempt from this guideline but it is a good benchmark to keep in place. With an annual maximum service of now 34 and a backup fleet of 17, the backup ratio is 50%. This higher number is needed and reasonable due to the variety of passenger seating requirements for specific routes throughout the District. These backup vehicles ensure consistent coverage of all routes when vehicles are off line due to routine maintenance or unexpected breakdowns.

<table>
<thead>
<tr>
<th>Month</th>
<th>Spare Vehicles</th>
<th># Needed to run</th>
<th>Spare Ratio (%)</th>
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<tbody>
<tr>
<td>July</td>
<td>18</td>
<td>32</td>
<td>56.25%</td>
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<tr>
<td>Aug</td>
<td>18</td>
<td>32</td>
<td>56.25%</td>
</tr>
<tr>
<td>Sept</td>
<td>18</td>
<td>32</td>
<td>56.25%</td>
</tr>
<tr>
<td>Oct</td>
<td>18</td>
<td>32</td>
<td>56.25%</td>
</tr>
<tr>
<td>Nov</td>
<td>14</td>
<td>32</td>
<td>41.18%</td>
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<tr>
<td>Dec</td>
<td>14</td>
<td>34</td>
<td>41.18%</td>
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<tr>
<td>Jan</td>
<td>15</td>
<td>34</td>
<td>44.12%</td>
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<tr>
<td>Feb</td>
<td>17</td>
<td>34</td>
<td>50.00%</td>
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<tr>
<td>March</td>
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Recommended spare vehicle ratio is 20.00% throughout the year.
The FTA allows the use of years or mileage to attain usable life. The District uses mileage rather than the year of manufacture because of the large area of the district and the high number of miles traveled on an annual basis. This compares the age of specific kind of vehicles by mileage in accordance to the FTA guidelines. This is useful in fleet replacement planning. The numbers will vary month to month as mileages increase and old vehicles are replaced by new.
Percentage of “On-Time” PM / Inspections

The federal benchmark for the percentage of “on-time” preventative maintenance (PMs) and inspections for the fleet is 87%. Inspections are required to be conducted within certain mileage timeframe by vehicle manufacturers for the various sizes of vehicles. Manufacturer’s recommended maintenance schedules may range in mileage due to the component makeup of a particular vehicle. The FTA recommends they be conducted within the manufacturer’s recommended maintenance schedule. However, as a sub recipient of NMDOT we are allowed varied standards as approved by NMDOT. With the variety of sizes and component makeup of District vehicles, we have determined and hold to a standard of 6000 mile intervals for the light and medium gasoline powered fleet and 7000 miles for the diesel powered medium-heavy fleet. This ensures frequent safety inspections and PM services at reasonable intervals that result in a more dependable and safer fleet. This data is collected and tracked by the Fleet Maintenance Manager.

<table>
<thead>
<tr>
<th>Month</th>
<th>FY 13-14 RTD Maintenance</th>
<th>FTA Recommendation</th>
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<tbody>
<tr>
<td>July</td>
<td>90</td>
<td>87</td>
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<tr>
<td>Aug</td>
<td>94</td>
<td>87</td>
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<tr>
<td>Sept</td>
<td>94</td>
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<tr>
<td>Oct</td>
<td>92</td>
<td>87</td>
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<td>Nov</td>
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<td>June</td>
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<td>87</td>
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Percent of Preventative Maintenance Completed Within Scheduled Mileage
Accidents per Month

This measurement shows us how many accidents occur within a month and to what frequency they occur. These are logged as minor or major accidents. A minor accident for example, is one where a driver hits a stationary object while backing but there is minimal damage. A major accident is one where there may be significant damage and/or injury, and a FTA Post accident drug screen is required. All accidents are reported to the Operations and Maintenance Manager to decide on what corrective action needs to be taken. There are established internal reporting and follow up procedures. All accidents, major or minor, are investigated and documented, and dealt with accordingly by the operations management team. As a result, disciplinary measures and/or driver re-training may be required by the outcome of the investigation.

Number of Major/Minor Accidents per 104,664 Miles Avg. Driven Monthly

MINOR ACCIDENT DETAIL
AT FAULT - Bus pulled out in front of vehicle on icy road.

MAJOR ACCIDENT DETAIL
AT FAULT - Bus pulled out in front of vehicle.

Last Minor Accident - February 2, 2016
Miles Driven since last Minor Accident - 89,712

Last Major Accident - February 5, 2016
Miles Driven since last Major Accident - 79,744
Performance Measure – Customer Relations:

Complaints per Month

This performance tracks monthly the number and type of complaints received by the Operations Division of the NCRTD. The complaints are received by the Operations and Maintenance Manager. These are categorized by the type of complaint, and evaluated as to the seriousness of the complaint and whether or not a course of action needs to be taken, i.e. driver reprimand, driver retraining, vehicle maintenance, etc. This measure is intended to measure the percentage of complaints versus the total ridership for the month. Driver performance can be graded and we can see if more drivers training needs to be scheduled for particular drivers. Customers also have complained about routes, stops, dispatch, bus cleanliness and other various categories.

1. YDI called RTD office to complain that their vehicles are being broken into by passengers that get off at our bus stop in Velarde by YDI Headstart center.
   Director spoke with someone at the YDI, informed them the stop at the intersection by the school was a requested stop by the people who live in the area in the 5yr plan and approved by the NMDOT. The RTD will track any negative activities directly attributed to our riders for future consideration.

2. Male rider called in to Taos office stating the bus is leaving early from the Smith’s stop and the Quality Inn stop.
   Supervisor gave drivers a heads-up reminder to watch their time of departure.

<table>
<thead>
<tr>
<th>FY 15-16 Number of Complaints</th>
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<tbody>
<tr>
<td>Total</td>
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<tr>
<td>-------</td>
</tr>
<tr>
<td>July</td>
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<td>August</td>
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<td>April</td>
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<td>May</td>
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<tr>
<td>June</td>
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<tr>
<td>Total</td>
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</tbody>
</table>
Performance Measure – Customer Relations: Customer Incidents

This performance measure calculates the number of customer incidents reported to the Operations and Maintenance Manager on a monthly basis. Customer incidents are any serious occurrence that may have an outcome that could be potentially hazardous to the driver or other passengers. These situations could be anything such as two passengers arguing over something, or a rider threatening a driver, or a non-rider harassing a driver for not being on time. It could also be a passenger falling down on the bus, or a passenger stepping in front of the bus as it pulls away from the curb to stop it to get on the bus. This data is collected by the driver writing an incident report and turning it in to the Operations and Maintenance Manager. This is intended to measure the types of situations that arise and how frequently they arise on the various routes of service provided by the NCRTD. This measurement tells us the frequency of incidents versus the number of monthly riders. We can then see if additional training needs to be implemented for the driver to avoid or control incidents that may occur on his route.

1. Santa Fe/Taos – Man boarded bus with 2 dogs, claiming they were service animals. Driver called base to reaffirm if the dogs were both allowed on the bus. Dispatch allowed a one-time service to the rider, asked driver to explain that only one service animal is permitted.
2. Taos PM – Intoxicated passenger tried to board the bus with a bottle of liquor, driver did not allow him to board the bus. Passenger tried to argue with driver, driver called into dispatch at this time passenger left.
3. Santa Fe/Taos – Two passengers had an argument on the bus. One passenger told the driver that the other passenger has threatened to stab them. Driver called in to dispatch, requested for a supervisor to meet the bus at the Cities of Gold stop. Driver met supervisor at Park N Ride stop. Supervisor’s dealt with passengers directly, no weapon were found, situation was resolved.
4. Riverside 1 PM route – There was an intoxicated passenger who was on the bus when driver switched to cover a lunch break. Passenger got off the bus, then wanted back on at another stop but driver did not allow passenger back on due to intoxication.
5. Riverside Lunch – Driver has to refuse service to 2 passengers due to having a full bus from Park N Ride to Ohkay Casino.
6. Riverside II AM – Driver had a passenger who was confused about the routes, wanted to get the Chama bus. Passenger left his phone on Riverside II bus, was able to retrieve his phone.
7. Taos/Santa Fe – A passenger boarded the bus at Cities of Gold with a dog who started to bark at other passengers on the bus. Driver asked the passenger and his dog to exit the bus as the dog. The dog did not meet the guidelines of a service animal.
8. Taos – A passenger denied being intoxicated when boarding the bus. While bus is moving, passenger stands up and begins walking. The Driver told the passenger to sit down. The passenger fell in the aisle. Driver asked the passenger to get off at the next stop. The passenger mumbled that he would shoot the driver.
9. Santa Clara – Driver was radioed in by dispatch while at Sheridan Street to go back to the Santa Fe Indian School to pick up a rider that was left. Driver returned back to Santa Fe Indian School to pick up the rider that was left. The rider yelled at the driver saying that he was late and there were other riders that needed to get to the train station. Driver apologized to the passenger stating it was his first time driving that route.
10. Riverside I – Picked up passengers at the Ohkay Casino. The driver noticed that a new rider had boarded the bus that had not been on the bus before. The driver asked where he/she was going? One of the other passengers responded saying they were all going to Park N Ride. The driver advised the passenger who interrupted the conversation that she was talking to the new passenger. The other passenger got argumentative with the driver stating she was going to write a letter to the NCRTD office.
11. Taos – Passenger was getting off at a stop, misjudged the distance from where he was standing to where the pole was by the steps. He reached out for the pole and fell forward. It took the passenger a while to stand up, driver asked if he wanted the ambulance to be called. The passenger denied medical attention.
12. Riverside Drive I PM – While drivers were switching shifts, a passenger who claimed he was involved in an accident on one of the other RTD buses was asking one of the drivers if she knew who the insurance carrier was. Driver advised him that he would need to call the office and speak to management.

13. Riverside II – Passenger wanted the driver to drop him off at the intersection by the Dream Catcher. Driver advised the passenger that they are only allowed to drop off at designated stops.

14. Taos/Santa Fe – Passenger wanted to bring on board a wagon full of personal belongings. Driver radioed into dispatch for clearance. Dispatch told driver that was not allowed, driver had to deny service to the passenger.

15. San Ildefonso – Passenger had an energy drink in his back pocket that spilt on the bus. Driver advised the passenger that drinks were not allowed on the bus.

16. San Ildefonso – Driver picked up 2 passengers at Pumaboy Street in San Ildefonso. Driver advised the passengers this was not a stop and would need to be at a designated stop to be picked up and would only be dropped off at designated stops.

17. Taos Red Line – A passenger and his friends were yelling on the bus disturbing other passengers. These passengers seemed to be intoxicated, driver asked them to get off the bus at CID’s stop and were told they couldn’t ride the rest of the day.

18. Riverside II AM – Driver asked a passenger to get off of the bus when he spilt bottle of vodka on the bus.

19. Riverside I – A passenger was intoxicated and refused to get off of the bus. Law enforcement was called to get the passenger off of the bus.

20. Edgewood – Two passengers boarded the bus, one passenger became argumentative with another passenger. Driver was aware of the confrontation.

21. Santa Fe/Taos – An older man who got on at Cities of Gold to Santa Fe smelled of gas upon boarding the bus. By the time they reached Sheridan Street the smell was more intense. The driver told the passenger that if it happened again he would not be allowed to ride the bus.

22. Riverside Drive I PM – Driver picked up passengers up at Park N Ride. A passenger noted to the driver he wanted to go riding on the bus, the driver told him that he would need to get off at a stop that he couldn’t ride. The passenger got upset with the driver and began cursing at him. The driver then denied service.

23. Riverside Drive I PM - Two passengers were picked up at Park N Ride, went and sat at the back of the bus. Driver noticed they were eating on the bus, driver advised them they were not allowed to be eating on the bus. When the passengers got off of the bus they got mad at the driver and told him they were going to call the office to complain that he was picking on them.

24. Taos/Santa Fe – Five passengers tried to stop the driver while driver was coming into the parking lot at Taos County Admin to get picked up. Driver told passengers to walk to the bus stop, he will only pick up at the designated stop. Passengers complained and told the driver that the driver who normally drives the route picks them up in the parking lot. Driver had a small conflict with the passengers.

25. Taos – Passenger punched the bus and flipped the driver off, driver asked the passenger to get off of the bus. The passenger then called the driver a “f--in speck”.

26. Dispatch – Driver called into dispatch notifying there was a lady by the Northern New Mexico College who was slumped over, to call 911. Dispatch later received a call from this lady. The lady was very upset that the ambulance was called and began arguing with the dispatcher as to why she called for assistance.
## Performance Measure – Customer Relations: Customer Incidents

### FY 14-15 Number of Customer Incidents

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Driver-Non Rider</th>
<th>Rider-Rider</th>
<th>Driver-Rider</th>
<th>Rider</th>
<th>% of Ridership</th>
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<td></td>
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<td>Aug</td>
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<td>1</td>
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<td>3</td>
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<tr>
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<td>3</td>
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</tr>
<tr>
<td>Dec</td>
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<tr>
<td>Jan</td>
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</tr>
<tr>
<td>April</td>
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<td>May</td>
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<td>Total</td>
<td>88</td>
<td>11</td>
<td>9</td>
<td>43</td>
<td>25</td>
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PARATRANSIT Performance Measures for Fiscal Year 2016

February 2016
The performance measures that were developed are designed to provide data that can be evaluated in a logical manner. It allows the District to identify areas in which its performance may need to be improved and to understand the characteristics and factors that impact that performance. In addition, to the extent feasible a peer comparison or a benchmark has been included as available or appropriate. This performance data is important since many times the District’s costs, efficiencies and productivity is not measured against any benchmark or standard or attempts are made to compare it against systems that bear no similarities in mission, complexity or service area. Therefore, the data presented should provide some context in which to assess the District and its efforts to deliver services based upon its mission, goals and objectives.”

The report data collected is grouped into 3 areas: Demand Response Administrative, Paratransit Operations and Customer Relations:

1. Demand Response Administrative:
   A. Ridership, All Demand Response Routes
   B. Ridership, Demand Response Paratransit
   C. Demand Response Operational Cost
   D. Cost Per Mile
   E. Cost Per Trip

2. Paratransit Operations
   A. Cancellations
   B. Late Cancellations
   C. No-Shows
   D. On-Time Performance
   E. Trip Length

3. Customer Relations:
   A. Complaints
   B. Incidents

The closest peer comparison is Rio Metro Regional Transit District-Sandoval/Valencia County for 2014. Theirs covers a large area as does NCRTD giving a close comparable to cost per mile. Their percentage of Demand Response trips are 46% of their total ridership, higher than NCRTD’s at 4.7%, showing a considerable spread on the cost per trip. The FTA benchmarking data used originates from the Rural Transit Fact Book 2014. The data is for 2012 in FTA Region 6, rural providers which includes New Mexico, Texas, Oklahoma, Arkansas and Louisiana.
Performance Measure - Administrative:

Ridership Tracking of All Demand Response Routes

This measurement tracks the number of rides (trips) taken each month on all the demand response routes within the district. This graph shows the NCRTD demand response ridership numbers, and compares them each month, identifying any increases or decreases in the number of monthly trips. This also indicates how well the regional district is continuing to address the issue of accessible mobility by routes that are in areas where there is public demand.

<table>
<thead>
<tr>
<th>Year</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>April</th>
<th>May</th>
<th>June</th>
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<tbody>
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<td>FY 12-13</td>
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<td>1,066</td>
<td>1,045</td>
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<td>1,110</td>
<td>1,232</td>
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<td>1,010</td>
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<td>754</td>
<td>924</td>
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<td>681</td>
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<td>1,067</td>
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<td>FY 15-16</td>
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<td>959</td>
<td>1,335</td>
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<td>1,022</td>
<td>1,103</td>
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</table>

YEAR TO DATE: FY 15-16  8237
Ridership Tracking of Demand Response / ADA Paratransit Trips

This ridership data represents the number of ADA paratransit trips that occurred each month within the demand response routes. This also includes any ADA eligible trips that occurred on the fixed/flex routes. Please note that this an incomplete chart at this time will be updated as ADA Paratransit ridership can be mined from the historical data.

Performance Measure - Administrative:

<table>
<thead>
<tr>
<th>Year</th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>April</th>
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<tr>
<td>FY 12-13</td>
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<td>193</td>
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</tr>
<tr>
<td>FY 15-16</td>
<td>297</td>
<td>250</td>
<td>281</td>
<td>241</td>
<td>222</td>
<td>249</td>
<td>217</td>
<td>268</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

YEAR TO DATE: FY 15-16 2025
The NCRTD’s Finance Department provides the administrative and operating expenses in a monthly budget status report. It is important to measure the operational costs to maintain a balanced budget, as well as tracking the administrative and operating margins. This data is used in determining the cost per trip and the cost per mile. The operating budget for demand response is 6.97% of the overall operating budget. Each month’s operating expenditures are calculated at 6.97% to acquire a crude demand response share. That share is then calculated to a percentage of the actual ADA trips for the month to determine a cost for paratransit. This number will be used to calculate cost per mile and cost per trip.

### Performance Measure - Administrative:

#### Monthly Demand Response & ADA Paratransit Operational Costs

The NCRTD’s Finance Department provides the administrative and operating expenses in a monthly budget status report. It is important to measure the operational costs to maintain a balanced budget, as well as tracking the administrative and operating margins. This data is used in determining the cost per trip and the cost per mile. The operating budget for demand response is 6.97% of the overall operating budget. Each month’s operating expenditures are calculated at 6.97% to acquire a crude demand response share. That share is then calculated to a percentage of the actual ADA trips for the month to determine a cost for paratransit. This number will be used to calculate cost per mile and cost per trip.

#### Monthly Demand Response & ADA Paratransit Operational Cost FY 14-15

<table>
<thead>
<tr>
<th></th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Operations</td>
<td>$197,484</td>
<td>$249,820</td>
<td>$372,007</td>
<td>$389,501</td>
<td>$419,913</td>
<td>$325,386</td>
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<tr>
<td>Demand Ops</td>
<td>$13,765</td>
<td>$17,412</td>
<td>$25,929</td>
<td>$27,148</td>
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<td>$22,679</td>
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<td>$0</td>
<td>$0</td>
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</tr>
<tr>
<td>Paratransit Cost</td>
<td>$5,663</td>
<td>$4,527</td>
<td>$5,445</td>
<td>$5,375</td>
<td>$6,971</td>
<td>$5,976</td>
<td>$4,740</td>
<td>$4,638</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

YEAR TO DATE: FY 15-16 $43,335
The Paratransit Cost per Vehicle Mile is the total operating costs per month in relation to the percentage of ADA vehicle miles per month traveled. The mileage data is logged daily for each route and compiled into a monthly report. As a cost efficiency measure, operating costs per vehicle mile assesses the financial resources needed for the District’s demand response paratransit route operations. This measurement is a beneficial tool for the planning and operation’s departments. The NM Department of Transportation uses this as one of their performance measures in the state-wide transit guide published annually. Additionally, this is used when NMDOT evaluates a transit system for the state-wide awards of 5311 and 5310 funding. The peer comparison is Rio Metro Regional Transit District-Sandoval/Valencia County for 2014. Theirs covers a large area as does NCRTD giving a close comparable. Data from the 2014 Rural Transit Data Fact Book with data from 2012, specifically FTA’s District 6 (our district) annual cost per trip is included as a benchmark.
Performance Measure - Administrative:

Paratransit Operating Cost per Trip

The paratransit cost per trip is computed on a monthly basis by dividing the paratransit monthly operating costs from the paratransit cost (chart above), by the total monthly number of trips (ridership). NM Department of Transportation uses this as one of their performance measures to the state-wide transit guide published annually. Additionally this is used when NMDOT evaluates a transit system for the state-wide awards of 5311 and 5310 funding. This is a management tool to track our cost per trip vs. the amount of budget being spent to operate a particular route as well as collectively for all routes. The peer comparison is Rio Metro Regional Transit District-Sandoval/Valencia County for 2014. Theirs covers a large area as does NCRTD giving a close comparable. Data from the 2014 Rural Transit Data Fact Book with data from 2012, specifically FTA’s District 6 (our district) annual cost per trip is included as a benchmark.
Performance Measure – Paratransit Operations:

Cancellations, Late Cancellations and No-Show:

Cancellations, Late Cancellations and No-shows by the paratransit rider are tracked as a performance measure. A late cancellation (cancelled within 2 hours of the scheduled trip) is counted as a No-Show. When a rider has accumulated 3 No-Shows in a 30 day period, he/she may be subject to a 30 day suspension of service.

\[\text{Cancellations} = 19 \quad \text{Late Cancellations} = 19 \quad \text{No-shows} = 2\]

On Time Performance and Trip Length tracked for scheduling and driver performance. On-Time performance is considered on-time from 10 minutes before to 20 minutes after the scheduled pickup time for the scheduled ride. This is reflected in the percentages of total trips that were early, late and on time. The performance goal for this measure is to attain 90% On-time.

\[\text{Early} = 11.33\% \quad \text{On Time} = 88.06\% \quad \text{Late} = 0.60\%\]

Trip length is measured to determine the average trip length riders are on the bus during their trip as the rides are shared with other rider’s pick up and drop offs. This is considered acceptable when ride time is not longer than twice the time it would take to make the ride on a fixed route bus. The average trip time on comparable fixed routes is 15 minutes.

\[\text{Average Trip Length Per Client} = 19.98 \text{ Minutes,} \quad 7.6 \text{ Mile On Board}\]
Performance Measure – Customer Relations:

Complaints per Month

This performance tracks monthly the number and type of complaints received by the Operations Division of the NCRTD. The complaints are received by the Operations and Maintenance Manager. These are categorized by the type of complaint, and evaluated as to the seriousness of the complaint and whether or not a course of action needs to be taken, i.e. driver reprimand, driver retraining, vehicle maintenance, etc. This measure is intended to measure the percentage of complaints versus the total ridership for the month. Driver performance can be graded and we can see if more drivers training needs to be scheduled for particular drivers. Customers also have complained about routes, stops, dispatch, bus cleanliness and other various categories.

1. Demand Response – Passenger called into dispatch office asking dispatch to ask why her bus was late in picking her up. Dispatch told her that she had requested a different time to be picked up, the passenger began yelling at dispatch that she cost her money and that dispatch knew she had to catch the 9:30am bus to Santa Fe.

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Scheduling Issues</th>
<th>Driver Performance</th>
<th>CSR/Dispatch</th>
<th>Miscellaneous*</th>
<th>Percent VS Ridership</th>
</tr>
</thead>
<tbody>
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<td>July</td>
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<td>0</td>
<td>0</td>
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<td>August</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0.00%</td>
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<td>Sept</td>
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<tr>
<td>Dec</td>
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<td>0.37%</td>
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<td>April</td>
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<tr>
<td>May</td>
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<td>June</td>
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<td></td>
</tr>
<tr>
<td>Total</td>
<td>4</td>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0.21%</td>
</tr>
</tbody>
</table>
Performance Measure – Customer Relations:

Customer Incidents

This performance measure calculates the number of customer incidents reported to the Operations and Maintenance Manager on a monthly basis. Customer incidents are any serious occurrence that may have an outcome that could be potentially hazardous to the driver or other passengers. These situations could be anything such as two passengers arguing over something, or a rider threatening a driver, or a non rider harassing a driver for not being on time. It could also be a passenger falling down on the bus, or a passenger stepping in front of the bus as it pulls away from the curb to stop it to get on the bus. This data is collected by the driver writing an incident report and turning it in to the Operations and Maintenance Manager. This is intended to measure the types of situations that arise and how frequently they arise on the various routes of service provided by the NCRTD. This measurement tells us the frequency of incidents versus the number of monthly riders. We can then see if additional training needs to be implemented for the driver to avoid or control incidents that may occur on his route.

1. Demand Response - Driver went for a demand response passenger. Driver wasn’t sure if there was enough room to turn bus around, parked the bus by the road. Passenger walked to the bus. Another lady came to the bus and asked the driver to park closer to the house when picking up the passenger.

2. Demand Response – Driver picked up a passenger at the Espanola Dialysis Center. Passenger got on the bus very weak, required the driver to assist him in sitting him on the seat. Another RTD driver got there to assist. Driver radioed into dispatch asking them to call 911 to request an ambulance to be sent to the passenger’s residence to assist in getting him down from the bus and into his home.

3. Demand Response – When driver reached ADA passengers residence, the passenger stood up to walk towards the wheelchair lift, at this time the passenger fell slowly on the floor of the bus. Passenger didn’t hit anything on the bus, while on the floor the passenger handed his house keys to the driver to have the driver go open the front door to his house. Driver unlocked the front door for the passenger then came back to help him up but the passengers legs were too weak. Driver was not able to help the passenger up alone so she went to get help from the neighbor. The neighbor was not home, driver had to call dispatch to call an ambulance come to the passenger’s residence to assist in getting him off of the bus. While waiting a UPS driver got there to drop off a package, and he assisted in get the passenger off of the bus. Paramedics got there to help assist in getting the passenger inside his home.

Director called client to see what assistant he could obtain for future rides. Client advised that he and his doctor were discussing different treatments and thanked the RTD for the great services and great drivers we have.
<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Driver-Non Rider</th>
<th>Rider-Rider</th>
<th>Driver-Rider</th>
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<th>% of Ridership</th>
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<td>0</td>
<td>2</td>
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<td>0</td>
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<td>0</td>
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# NCRTD Monthly Ridership Summary

February 1, 2016 through February 29, 2016

## Calendar Operating Days

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<thead>
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<th>Month</th>
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<th>Total Ridership YTD % Change</th>
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<td>Jul-15</td>
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<tr>
<td>Aug-15</td>
<td>21</td>
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<tr>
<td>Sep-15</td>
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<td>Nov-15</td>
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<tr>
<td>Dec-15</td>
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<tr>
<td>Jan-16</td>
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<tr>
<td>Feb-16</td>
<td>21</td>
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<tr>
<td>Mar-16</td>
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<tr>
<td>Apr-16</td>
<td></td>
<td></td>
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<tr>
<td>May-16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jun-16</td>
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## Monthly System Totals

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<tr>
<th></th>
<th>This Year</th>
<th>Last Year</th>
<th>% Change</th>
<th>Year to Date Totals</th>
<th>This Year</th>
<th>Last Year</th>
<th>Difference</th>
<th>% Change</th>
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<tbody>
<tr>
<td>NCRTD Operated</td>
<td>24,214</td>
<td>15,134</td>
<td>60.00%</td>
<td>176,623</td>
<td>128,225</td>
<td>48,398</td>
<td>37.74%</td>
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<tr>
<td>NCRTD Funded</td>
<td>15,566</td>
<td>25,186</td>
<td>-38.20%</td>
<td>179,679</td>
<td>210,229</td>
<td>-30,550</td>
<td>-14.53%</td>
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<tr>
<td><strong>All Systems funded</strong></td>
<td><strong>Total</strong></td>
<td>39,780</td>
<td>-1.34%</td>
<td>356,302</td>
<td>338,454</td>
<td>17,848</td>
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## System Daily Averages

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<th>% Change</th>
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<tr>
<td>NCRTD Operated</td>
<td>1153</td>
<td>757</td>
<td>52.31%</td>
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<tr>
<td>NCRTD Funded</td>
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<td>1,259</td>
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<tr>
<td><strong>Systems Total</strong></td>
<td><strong>1894</strong></td>
<td><strong>2016</strong></td>
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## Total Ridership YTD % Change

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<th>Month</th>
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<td>-0.83%</td>
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<tr>
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<td>1.71%</td>
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<td>3.97%</td>
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<td>December-15</td>
<td>5.76%</td>
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<td>January-16</td>
<td>6.17%</td>
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<td>February-16</td>
<td>5.27%</td>
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<tr>
<td>March-16</td>
<td></td>
</tr>
<tr>
<td>April-16</td>
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<tr>
<td>May-16</td>
<td></td>
</tr>
<tr>
<td>June-16</td>
<td></td>
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</tbody>
</table>
Comparative Ridership NCRTD Funded Routes

FY12-13= 269,146 / FY13-14= 312,093 / FY14-15= 317,616 / FY15/16= 179,679
Comparative Ridership NCRTD Operated Routes Only

FY12-13= 193,027 / FY13-14= 209,750 / FY14/15= 184,320 / FY15/16= 176,623

Questa to Taos Route

FY12-13= 12,913 / FY13-14= 10,792 / FY14/15= 9,794 / FY15/16= 8,102
FY12-13= 10,500 / FY13-14= 10,243 / FY14/15= 9,862 / FY15/16= 8,971

FY12-13= 9,189 / FY13-14= 7,707 / FY14/15= 6,567 / FY15/16= 5,616
Riverside Drive Route

FY12-13 = 41,470 / FY13-14 = 48,943 / FY14/15 = 45,007 / FY15/16 = 29,937

Espanola to Chimayo Route

FY12-13 = 6,645 / FY13-14 = 7,818 / FY14/15 = 8,633 / FY15/16 = 5,171
FY12-13= 13,359 / FY13-14= 15,393 / FY14-15= 12,864 / FY15-16= 8,415

### Santa Clara to Espanola/Santa Fe Route

<table>
<thead>
<tr>
<th>Month</th>
<th>FY12/13</th>
<th>FY13/14</th>
<th>FY14/15</th>
<th>FY15-16</th>
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<tbody>
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<td>Jul</td>
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<td>655</td>
<td>532</td>
<td>493</td>
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<tr>
<td>Aug</td>
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<tr>
<td>Sept</td>
<td>448</td>
<td>663</td>
<td>424</td>
<td>700</td>
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<tr>
<td>Oct</td>
<td>542</td>
<td>691</td>
<td>534</td>
<td>655</td>
</tr>
<tr>
<td>Nov</td>
<td>527</td>
<td>549</td>
<td>369</td>
<td>550</td>
</tr>
<tr>
<td>Dec</td>
<td>470</td>
<td>596</td>
<td>413</td>
<td>502</td>
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<tr>
<td>Jan</td>
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<tr>
<td>Feb</td>
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<td>586</td>
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<tr>
<td>Mar</td>
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</tr>
<tr>
<td>Apr</td>
<td>812</td>
<td>864</td>
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<tr>
<td>May</td>
<td>789</td>
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<td>Jun</td>
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### Espanola to Los Alamos Route

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<th>FY14/15</th>
<th>FY15-16</th>
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<tbody>
<tr>
<td>Jul</td>
<td>156</td>
<td>174</td>
<td>178</td>
<td>128</td>
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<tr>
<td>Aug</td>
<td>159</td>
<td>147</td>
<td>217</td>
<td>106</td>
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<tr>
<td>Sept</td>
<td>118</td>
<td>142</td>
<td>179</td>
<td>87</td>
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<tr>
<td>Oct</td>
<td>116</td>
<td>135</td>
<td>210</td>
<td>96</td>
</tr>
<tr>
<td>Nov</td>
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<td>101</td>
</tr>
<tr>
<td>Jan</td>
<td>108</td>
<td>133</td>
<td>133</td>
<td>129</td>
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<tr>
<td>Feb</td>
<td>94</td>
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<td>176</td>
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<tr>
<td>Mar</td>
<td>93</td>
<td>153</td>
<td>113</td>
<td></td>
</tr>
<tr>
<td>Apr</td>
<td>143</td>
<td>164</td>
<td>71</td>
<td></td>
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<tr>
<td>May</td>
<td>113</td>
<td>167</td>
<td>74</td>
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</tr>
<tr>
<td>Jun</td>
<td>160</td>
<td>169</td>
<td>141</td>
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FY12-13 = 1,461 / FY13-14 = 1,685 / FY14-15 = 1,820 / FY15-16 = 876
### Tesuque Santa Fe Route

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<th>FY-13/14</th>
<th>FY14/15</th>
<th>FY15-16</th>
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<td>Jul</td>
<td>485</td>
<td>822</td>
<td>865</td>
<td>859</td>
</tr>
<tr>
<td>Aug</td>
<td>519</td>
<td>829</td>
<td>834</td>
<td>936</td>
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<tr>
<td>Sept</td>
<td>548</td>
<td>831</td>
<td>777</td>
<td>804</td>
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<tr>
<td>Oct</td>
<td>756</td>
<td>916</td>
<td>831</td>
<td>682</td>
</tr>
<tr>
<td>Nov</td>
<td>541</td>
<td>802</td>
<td>649</td>
<td>593</td>
</tr>
<tr>
<td>Dec</td>
<td>513</td>
<td>820</td>
<td>684</td>
<td>727</td>
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<td>995</td>
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<td>Feb</td>
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<td>805</td>
<td>798</td>
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FY12-13 = 7,524 / FY13-14 = 10,448 / FY14-15 = 9,322 / FY15-16 = 5,917

### San Ildefonso Pueblo Route

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<th>FY-13/14</th>
<th>FY14/15</th>
<th>FY15-16</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul</td>
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<td>167</td>
<td>171</td>
<td>233</td>
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<tr>
<td>Aug</td>
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<td>Sept</td>
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<tr>
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<tr>
<td>Jun</td>
<td>217</td>
<td>284</td>
<td>261</td>
<td></td>
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</table>

FY12-13 = 3,347 / FY13-14 = 2,951 / FY14-15 = 1,997 / FY15-16 = 2,634
Pojoaque Route has been changed to Pojoaque Dial A Ride effective 03/16/2015.

**Red River Route**

<table>
<thead>
<tr>
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<th>FY-13/14</th>
<th>FY14/15</th>
<th>FY15-16</th>
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<tr>
<td>Sept</td>
<td>291</td>
<td>284</td>
<td>216</td>
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<tr>
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<td>358</td>
<td>304</td>
<td>187</td>
<td>147</td>
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<tr>
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<td>Jun</td>
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<td>494</td>
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**Pojoaque/Nambe Dial-A-Ride Route**

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<th>FY-13/14</th>
<th>FY14/15</th>
<th>FY15-16</th>
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<td>128</td>
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<tr>
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<td>109</td>
<td>171</td>
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</tr>
<tr>
<td>Mar</td>
<td>176</td>
<td>115</td>
<td>115</td>
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<tr>
<td>Apr</td>
<td>166</td>
<td>139</td>
<td>67</td>
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</tr>
<tr>
<td>May</td>
<td>179</td>
<td>107</td>
<td>61</td>
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<tr>
<td>Jun</td>
<td>131</td>
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</tr>
</tbody>
</table>

FY12-13= 2,035 / FY13-14= 1,389 / FY 14-15= 1,251 / FY15-16= 714

Pojoaque Route has been changed to Pojoaque Dial A Ride effective 03/16/2015.
### Turquoise Trail / 599 Route

<table>
<thead>
<tr>
<th>Month</th>
<th>FY12-13</th>
<th>FY13-14</th>
<th>FY14-15</th>
<th>FY15-16</th>
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<tbody>
<tr>
<td>Jul</td>
<td>623</td>
<td>669</td>
<td>852</td>
<td>641</td>
</tr>
<tr>
<td>Aug</td>
<td>598</td>
<td>655</td>
<td>773</td>
<td>613</td>
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<td>Sept</td>
<td>458</td>
<td>594</td>
<td>733</td>
<td>666</td>
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<td>Oct</td>
<td>596</td>
<td>585</td>
<td>869</td>
<td>660</td>
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<td>Nov</td>
<td>475</td>
<td>467</td>
<td>682</td>
<td>542</td>
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<td>Dec</td>
<td>470</td>
<td>498</td>
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<td>520</td>
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<td>Jan</td>
<td>563</td>
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<td>458</td>
<td>559</td>
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<td>371</td>
<td>713</td>
<td>894</td>
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<td>Apr</td>
<td>469</td>
<td>727</td>
<td>638</td>
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<tr>
<td>May</td>
<td>429</td>
<td>745</td>
<td>541</td>
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<td>Jun</td>
<td>389</td>
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</table>

FY12-13 = 5,899 / FY13-14 = 7,438 / FY14-15 = 9,220 / FY15-16 = 5,015

### Eldorado Route

<table>
<thead>
<tr>
<th>Month</th>
<th>FY12-13</th>
<th>FY13-14</th>
<th>FY14-15</th>
<th>FY15-16</th>
</tr>
</thead>
<tbody>
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<td>564</td>
<td>441</td>
<td>408</td>
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<tr>
<td>Aug</td>
<td>799</td>
<td>642</td>
<td>524</td>
<td>412</td>
</tr>
<tr>
<td>Sept</td>
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<td>477</td>
</tr>
<tr>
<td>Oct</td>
<td>745</td>
<td>697</td>
<td>492</td>
<td>376</td>
</tr>
<tr>
<td>Nov</td>
<td>521</td>
<td>485</td>
<td>410</td>
<td>348</td>
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<tr>
<td>Dec</td>
<td>484</td>
<td>409</td>
<td>397</td>
<td>307</td>
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<tr>
<td>Jan</td>
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</tr>
<tr>
<td>Feb</td>
<td>518</td>
<td>598</td>
<td>482</td>
<td>443</td>
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<tr>
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<td>584</td>
<td>565</td>
<td>300</td>
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<td>Apr</td>
<td>552</td>
<td>528</td>
<td>401</td>
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<tr>
<td>May</td>
<td>576</td>
<td>484</td>
<td>322</td>
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<td>Jun</td>
<td>487</td>
<td>418</td>
<td>465</td>
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</table>

FY12-13 = 7,045 / FY13-14 = 6,636 / FY14-15 = 5,154 / FY15-16 = 3,164
Edgewood Route

FY12-13 = 7,568
FY13-14 = 9,612
FY14-15 = 8,822
FY15-16 = 4,507

Tres Piedras - Services began on March 18, 2015

FY14/15 = 236
FY15/16 = 355
UNM Klauer Route - Services resumed on August 17, 2015

FY12-13= 4,504 / FY13-14= 3,579 / FY14/15= 1,908 FY15/16= 1,123

Taos Express - Services began on January 2, 2015

FY14/15= 731 FY15/16= 962

Special Events

FY14/15= 105 FY15/16= 105
### Mountain Trial

FY15/16 = 3,659

<table>
<thead>
<tr>
<th>Month</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
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</thead>
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</table>

### Taos Ski Valley

FY15/16 = 4,881

<table>
<thead>
<tr>
<th>Month</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
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</thead>
<tbody>
<tr>
<td>FY15/16</td>
<td>1182</td>
<td>1992</td>
<td>1707</td>
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</table>

FY15/16 = 4,881

FY12-13 = 6,792 / FY13-14 = 6,230 / FY14-15 = 6,873 / FY15-16 = 4,849
Los Alamos Route 2

FY12-13 = 46,008 / FY13-14 = 106,671 / FY14-15 = 98,779 / FY15-16 = 56,958

Santa Fe Route 2

FY12-13 = 10,015 / FY13-14 = 11,543 / FY14-15 = 9,626 / FY15-16 = 6,354

FY12-13 = 10,925 / FY13-14 = 10,318 / FY14-15 = 7,739 / FY15-16 = 4,933
**Santa Fe Pick Up**

<table>
<thead>
<tr>
<th></th>
<th>Jul</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY-12/13</td>
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<td>9180</td>
<td>5153</td>
<td>9699</td>
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<td>5352</td>
<td>8175</td>
<td>6651</td>
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<tr>
<td>FY-13/14</td>
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<td>9771</td>
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<td>5493</td>
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<td>6009</td>
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<td>8136</td>
<td>9187</td>
<td>5795</td>
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<td>7120</td>
<td>6298</td>
<td>6097</td>
<td>8339</td>
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<tr>
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<td>8431</td>
<td>7701</td>
<td>9718</td>
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<td>4941</td>
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</table>

FY12-13 = 80,318 / FY13-14 = 76,413 / FY14-15 = 86,790 / FY15-16 = 47,341

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**Rail Runner Ridership**

<table>
<thead>
<tr>
<th></th>
<th>July</th>
<th>Aug</th>
<th>Sept</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY-12/13</td>
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<td>30,270</td>
<td>33,336</td>
<td>25,750</td>
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<td>26,887</td>
<td>26,541</td>
<td>30,434</td>
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<td>30,278</td>
<td>31,021</td>
</tr>
<tr>
<td>FY-14/15</td>
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<td>25,101</td>
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<td>22,239</td>
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