

1  
2 **MINUTES OF A REGULAR MEETING**  
3 **OF THE GOVERNING BODY OF THE TOWN OF BERNALILLO**  
4 **HELD AT THE TOWN HALL**  
5 **December 26, 2017**  
6

7 The Governing Body of the Town of Bernalillo met in a regular session within the law and rules  
8 of the Town on December 26, 2017, at 6:30 P.M.

9  
10 Upon roll call the following members were found to be present:

11  
12 **PRESENT:** **ALSO PRESENT:**  
13 Councilor Jaramillo Mike Kloeppel  
14 Councilor Sisneros  
15 Councilor Prairie  
16 Mayor Torres  
17

18  
19  
20 **ABSENT: Councilor Dominguez Others Present Not Identified**  
21  
22

23 **APPROVAL OF AGENDA: 4a)**

24 Councilor Jaramillo moved to approve the agenda as presented. The motion was seconded by  
25 Councilor Sisneros and the motion carried unanimously.  
26

27 **APPROVAL OF MINUTES: 5a) Regular Meeting of December 11, 2017**

28 Mayor Torres stated he had two changes on page 8 on line 300 the word "in reference to an", he  
29 also stated on line 315 it should be "December".  
30

31 Councilor Sisneros moved to approve the minutes of December 11, 2017 as amended. The  
32 motion was seconded by Councilor Jaramillo and the motion carried unanimously.  
33

34 **PERSONNEL: 6a) Approval of New Position Capital Project Administrative Clerk-**  
35 **Presenter-Troy Martinez.**

36 Lupita De Herrera, Treasurer/Finance Director, presented for Troy Martinez, New Position for  
37 Capital Project Administrative Clerk. This position is for the Public Works/Capital Projects  
38 Director, it is a part-time (30) thirty hours a week and it is Non-Exempt.  
39

40 Councilor Prairie, concern is with as much as experience that is required, will there be any  
41 qualified applicants, because of the low wage level.  
42

43 Mayor Torres stated that we should post the position and see if there is anyone interested in the  
44 position. If we don't receive applicants, we will revisit the position and wage offered.  
45  
46

47 Mayor entertained a motion.

48

49 Councilor Jaramillo moved to approve the position of Capital Project Administrative Clerk. The  
50 motion was seconded by Councilor Prairie.

51

52

53 **PERSONNEL: 6b) Administrative Support Clerk. Presenter: Ida Fierro**

54 Lupita De Herrera, Town Treasurer/Clerk, stated that it was the recommendation of the hiring  
55 committee to hire Barbara Marquez as the Administrative Support Clerk.

56

57 Mayor entertained a motion.

58

59 Councilor Prairie moved to approve the hiring of Barbara Marquez as the Administrative Support  
60 Clerk. The motion was seconded by Councilor Sisneros and the motion carried unanimously.

61

62

63 **NEW BUSINESS: 7a) Discussion, Consideration, Action, Approval and Adoption of**  
64 **Resolution 12-26-17 Budget Adjustment for Police Funds. Presenter: Lupita De Herrera**

65

66

Town of Bernalillo  
RESOLUTION NO. 12-26-17

67

68  
69 WHEREAS, the Town of Bernalillo meeting in Regular Session on the 26th day of December  
70 2017 at the Town Hall at 6:30p.m., as per law,

71

72 WHEREAS, the need for a budget adjustment has developed after careful review of the budget  
73 submitted to the Department of Finance & Administration (DFA),

74

75 NOW, THEREFORE BE IT RESOLVED, that the budget be amended as follows:

76 **POLICE FUND:**

77 **Police Community Events & Santa Ana Animal Control**

78 **Revenues:**

79 Account Number	Description	Current Budget	Decrease	Increase	Adjusted Budget
80 124-000-4136-1-2	Donations			\$10,000	\$10,000
81 119-000-4243-1-2	Santa Ana MOA			\$7,200	\$7,200
82					
83	Net Effect Increase/ (Decrease)			\$17,200	\$17,200

84 **Expenditures:**

85 **Police Funds**

86 **Police Community Events & Santa Ana Animal Control**

87 Account Number	Description	Current Budget	Decrease	Increase	Adjusted Budget
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88	124-000-5150-1-2	Personnel Services	\$10,000	\$10,000
89	119-000-5069-2-0	Disposal & Impound Fees	\$7,200	\$7,200
90		Net Effect Increase/ (Decrease)	\$17,200	\$17,200

**Create Budget for Police Community Events and Santa Ana Animal Control MOA**

Mayor entertained a motion.

Councilor Prairie moved to adopt Resolution 12-26-17 Budget Adjustment for Police Funds. The motion was seconded by Councilor Jaramillo and the motion carried unanimously.

**NEW BUSINESS: 7b) Discussion, Consideration, Action, Approval and Adoption of Resolution 12-26-17A Budget Adjustment for Library Funds. Presenter: Lupita De Herrera**

Town of Bernalillo  
 RESOLUTION NO. 12-26-17

WHEREAS, the Town of Bernalillo meeting in Regular Session on the 26th day of December 2017 at the Town Hall at 6:30p.m., as per law,

WHEREAS, the need for a budget adjustment has developed after careful review of the budget submitted to the Department of Finance & Administration (DFA),

NOW, THEREFORE BE IT RESOLVED, that the budget be amended as follows:

**LIBRARY FUNDS:**

**Grant In Aid & GO Bond**

**Revenues:**

Account Number	Description	Current Budget	Decrease	Increase	Adjusted Budget
141-000-4709-1-2	Grant In Aid	\$7,780.00	\$135.00		\$7,645.00
140-000-4743-1-7	GO Bond State	\$8,084.00		\$17,494	\$25,578.00
	Net Effect Increase/ (Decrease)		\$135.00	\$17,494	\$33,223.00

**Expenditures:**

**LIBRARY FUND**

**Grant In Aid and GO Bond**

Account Number	Description	Current Budget	Decrease	Increase	Adjusted Budget
141-000-5056-2-0	Books and Programs	\$7,780.00	\$135.00		\$7,645.00
140-000-5056-2-0	Books and Programs	\$8,084.00		\$17,494	\$25,578.00
	Net Effect Increase/ (Decrease)		\$135.00	\$17,794	\$33,223.00

**Increase Grant in Aid and GO Bond funds to account for actual amount of grant monies received.**

130 Mayor Torres entertained a motion.

131

132 Councilor Sisneros moved to adopt Resolution 12-26-17A Budget Adjustment for Library Funds.  
133 The motion was seconded by Councilor Jaramillo and the motion carried unanimously.

134

135

136 **NEW BUSINESS: 7c) Discussion, Consideration, Action, and Approval of Cooperative**  
137 **Project Agreement Construction Work Between the New Mexico Department of**  
138 **Transportation and the Town of Bernalillo for Control #A301312 for \$1,297,178 for Phase**  
139 **III ADA Compliant Crosswalks from Calle Presidente to Calle del Norte Presenter: Andy**  
140 **Edmondson.**

141

142 Andy Edmondson, Public Works Director, presented the Cooperative Project Agreement-  
143 Construction Work for the sidewalk replacement for ADA compliance, pedestrian and roadway  
144 lighting and ADA compliant crosswalks for Phase III-from Calle Presidente to Calle del Norte in  
145 the amount of \$1,108,309 the Town must Match \$188,869 and the Total Project Cost of the  
146 Project is \$1,297,178.

147

148 Mayor Torres entertained a motion.

149

150 Councilor Jaramillo moved to approve the Cooperative Project Agreement for Construction  
151 Work Between the New Mexico Department of Transportation and the Town of Bernalillo,  
152 Control #A301312 in the amount of \$1,297,178 for Phase III, ADA Compliant Crosswalks from  
153 Calle Presidente to Calle del Norte. The motion was seconded by Councilor Sisneros and the  
154 motion carried unanimously.

155

156 **Attachment A: Agreement**

157

158 **NEW BUSINESS: 7d) Discussion, Consideration, Action, and Approval of Amendment**  
159 **to Professional Service Agreement by and between Sandoval County and Town of**  
160 **Bernalillo to provide Ambulance Services. Presenter: Chief Mike Carroll.**

161

162 Michael Carroll, Fire Chief, presented the Professional Service Agreement by and between  
163 Sandoval County and Town of Bernalillo to provide Ambulance Services for the Town. The  
164 reason for the increase in the contract to due to Sandoval County is adding a Third Medic Unit,  
165 which will be housed at Station 21, which is at Santa Ana Pueblo off of US550. The increase  
166 will be \$64,000 for the next two payments this year and next year's contract amount will be for  
167 \$200,000.

168

169 **Attachment B: Agreement**

170

171 Mayor Torres entertained a motion.

172

173 Councilor Prairie moved to adopt the Amendment to the Professional Service Agreement by and  
174 between Sandoval County and Town of Bernalillo to provide Ambulance Services. The motion  
175 was seconded by Councilor Jaramillo and motion carried unanimously.

176

177

178 **FINANCIAL SECTION: 8) Approval of Accounts Payable Voucher List.**

179 Mayor Torres asked for a motion to approve the accounts payable voucher list in the amount of  
180 \$207,443.24.

181

182 Mayor Torres entertained a motion.

183

184 Councilor Sisneros made a motion to approve the accounts payable voucher list in the amount of  
185 \$207,443.24. The motion was seconded by Councilor Jaramillo and the motion carried  
186 unanimously.

187

188 **MISCELLANEOUS SECTION: 9a) Public Comment.**

189 None

190

191 **INFORMATION ON NEW MEXICO MAINSTREET. 9b) Announcements. Presenter:**

192 **Michael Kloeppe**

193 New Mexico MainStreet, presented by Mike Kloeppe, Community Development. Mr. Kloeppe  
194 discussed the Webinar, Ms. Santillan and he attended. Mr. Kloeppe stated New Mexico  
195 MainStreet has no funding available. They are willing to provide support, but the businesses and  
196 the town would need to provide the funding for this project.

197

198 **MISCELLANEOUS SECTION: 9c) Announcements. Presenter: Mayor Torres**

199 Mike Kloeppe thanked everyone for the success of the Christmas Parade and the Christmas gifts.  
200 There were 125 families who were presented with presents. There were a lot of business and  
201 individuals who contributed to this fund.

202

203 Andy Edmondson wanted to thank Guillermo Calderon, provided two Santa's also.

204

205 Chief Mike Carroll said the Fire Department gave out 250 goody bags on Christmas Day.

206

207 Mayor Torres thanked everyone who attended the Legislative breakfast. Mayor said the

208 legislative breakfast was a success.

209  
210 Larry Horan, the lobbyist for COG and Sandoval County, in a presentation stated there are four  
211 million dollars in potential tax protests which remain unresolved. There is another 4 million  
212 dollars which would need to be reimbursed back to the federal government.

213  
214 Mayor Torres thanked staff for the Christmas Deliveries, the coat drive, the holiday social and all  
215 the events provided during this holiday season.

216  
217 Mayor Torres said the Holiday Social, which Jason Soto provides has grown and improved over  
218 the years.

219 Mayor Torres stated the Oil and Gas Ordinance presented by the county did not pass. Mayor is  
220 working with Carole Cristiano to develop a resolution for the protection of the underground  
221 water.

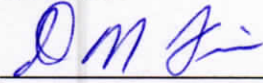
222  
223 Mayor Torres also stated the annual audit was submitted on December 14, 2017, one day before  
224 the deadline. There have been some improvements, from last year's audit, but we are not where  
225 we would like to be. Kubiak will continue to work with staff to improve on our audit.

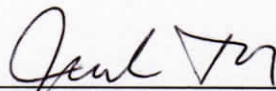
226  
227 There being no further business, Councilor Prairie moved to adjourn the meeting at 7:17 p.m.  
228 The motion was seconded by Councilor Sisneros and carried unanimously.

229  
230 Done this 26th day of December 2017.

231  
232

233 ATTEST:

234   
235 \_\_\_\_\_  
236 Ida Fierro, Town Clerk  
237 (Seal)

  
\_\_\_\_\_  
Jack S. Torres, Mayor

# Attachment A

Contract Number	
Vendor Number	<u>0000054446</u>
Control Number	<u>A301312</u>

## COOPERATIVE PROJECT AGREEMENT-CONSTRUCTION WORK

This Agreement is between the NEW MEXICO DEPARTMENT OF TRANSPORTATION ("Department"), and the Town of Bernalillo ("Public Entity"), collectively referred to as the "Parties." This Agreement is effective as of the date of the last party to sign it on the signature page below.

In consideration of the covenants contained herein and pursuant to NMSA 1978, Section 67-3-28, the Parties agree as follows:

### 1. Purpose:

The purpose of this Agreement is to provide Federal Highway Administration (FHWA) funds to the Public Entity for a transportation project described in the Public Entity's Plans Specifications and Estimate Package (PS&E), the Project Identification Form (PIF) and the Statewide Transportation Improvement Program (STIP). The deliverables under this Agreement may be referred to as the "Construction Work" for the project, which is referred to interchangeably as "Project" or "Project Control No. A301312." The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. Additionally, the purpose of this Agreement is to ensure that the scope of work is maintained throughout the life of the Project.

### 2. Funding:

- a. The total funding for Project Control No. A301312, is **One Million Two Hundred Ninety Seven Thousand One Hundred Seventy Eight Dollars and No Cents (\$1,297,178)** which will be shared by the Parties as follows:

1. <u>FFY 2018 STP URBAN AREAS W/POP OVER 200K (STPL) Funds</u>	
<u>Department's 85.44% share</u>	\$1,108,309
Sidewalk replacement for ADA complianace, pedestrian and roadway lighting and ADA compliant crosswalks. Phases I & II under CN 3450. Bernalillo Main St streetscape Phase III-From Calle Presidente to Calle del Norte. (Description as per STIP database and Agreement Request Form, this agreement only pertains to the construction portion of Project Control No. A301312.)	
2. <u>Town's matching 14.56% share</u>	\$188,869
For the purpose stated above.	
3. <u>The Total Project (Construction Work) Funding</u>	\$1,297,178

- b. The Public Entity shall pay all Project costs that exceed the total funding amount specified in this section and all costs determined to be ineligible for reimbursement under the terms of the listed funding sources.

- c. FHWA's obligation of federal funds shall be supported by a certified cost estimate based on the Public Entity's Engineer's Estimate (EE) and or Estimate of Probable Cost (EOPC). The EE shall be submitted to the Department's Central Region T/LPA Coordinator prior to the PS&E Review pursuant to 23 CFR Part 630B.
- d. After the project is advertised, bids shall be submitted in accordance with the advertisement for bids. The Public Entity will open sealed bids in accordance with the Public Entity established procurement procedures. The Department will review the Public Entity's determination of lowest responsive bid to determine if the amount of federal funds obligated by the FHWA requires adjustment pursuant to 23 CFR Part 630.106. The Public Entity's responsive low bid for the project, including approved alternates, will be compared to the amount obligated. The Department will allow a 15% increase over the base bid and any approved alternates to cover Engineering and Contingencies and Gross Receipts Tax. If the difference between the FHWA's obligation amount and the responsive low bid plus the 15% is within \$250,000, the amount of funds obligated will not change. If the difference between the obligation amount and the responsive low bid plus the 15% exceeds \$250,000, the difference will be deducted reducing the amount of funds obligated.
- e. The Public Entity may not make changes and add extra work to the Project after the construction contract has been awarded in order to take advantage of the project Costs as per the agreement amount. Pursuant to 23 CFR 630 and 23 CFR 635, specifically 23 CFR 635.120, extra work may be added to a project as a change order if such work could NOT have been reasonably anticipated at the time of letting and such work is necessary to the completion of the project. If at any point in the construction, the Public Entity identifies extra work as defined by the Department's specifications, current edition as of the date of execution of this agreement, that may be justified by incorporation into the contract, this proposed work shall be reviewed by the Department (District Engineer and Construction Liaison Engineer or Designee), which must concur prior to the commencement of the extra work.

### **3. Method of Payment – Reimbursement:**

The Department's District T/LPA Coordinator shall reimburse the Public Entity upon receipt of payment requests for the purposes stated in Section 2, with supporting documentation as determined and/or approved by the Department and Federal Regulations, certifying that costs have been incurred in compliance with this Agreement. **Appendix B** will also need to be submitted with Payment requests. Invoices will be accepted monthly, but must be submitted at a minimum quarterly to the Department's District T/LPA Coordinator. Payment requests shall be identified by the project control number and certified that the requests accurately reflect work completed, amount due and the remaining Agreement balance. All expenses must be actual, rather than estimated, and listed on the payment request as charged. Only those expenses that are properly documented and deemed eligible will be reimbursed. Incomplete submittals will be returned to the Public Entity for corrections. Only invoices for approved/undisputed work will be processed.

The Department's District T/LPA Coordinator will not reimburse the Public Entity for costs incurred prior to obligation of federal funding and the full execution of this Agreement, after the expiration of the Agreement, or in excess of the maximum dollar amount of the Agreement. Final payment requests shall be submitted to the Department's District T/LPA Coordinator within thirty (30)



calendar days of physical completion of the project and prior to the termination date identified within Section 20.

**4. Public Entity Shall:**

- a. Act in the capacity of the lead agency for the Project.
- b. Use the Project Control Number in all correspondence and submittals to the Department.
- c. In the event a contract term extension is needed, provide written notice to the Department sixty (60) days prior to the expiration date identified in Section 20 below to ensure timely processing.
- d. Obtain authorization of final Contract Book from Department's Region T/LPA Coordinator prior to advertisement.
- e. Provide notice to the Department's Central Region T/LPA Coordinator of the bid tabs and the lowest responsive bidder.
- f. Pay all costs, perform all labor and supply all material for the Project, or procure construction services to perform all labor and supply all materials for the Project.
- g. Identify a Project Manager who shall be the single point of contact for all communications to and from the Department.
- h. Advertise, let, and supervise the construction of Project Control No. A301312 using applicable federal, state or local requirements or procure services to accomplish these tasks.
- i. Ensure and maintain proof of compliance with 23 CFR Section 635.410 and ensure construction materials, including those associated with utility facilities and relocations, to be in accordance with "Buy America" requirements which require proof of origin and place of manufacture of iron and steel products and materials to be made in America. Additionally, ensure that this provision is included in all advertisement, construction and supply contracts at all tiers associated with the Project.
- j. Ensure construction of the Project complies with Title II of the Americans with Disabilities Act of 1990 (ADA), implemented by 28 CFR 35, Section 504 of the 1973 Rehabilitation Act, implemented by 49 CFR 27, NMDOT Pedestrian Access Details, and NMSA 1978 Sections 67-3-62 and 67-3-64. Additionally, ensure that this provision is included in all advertisement, construction and supply contracts at all tiers associated with the Project.
- k. If the Project will be built with Public Entity resources, you will need to coordinate with your Region T/LPA Coordinator to obtain prior FHWA approval. Then prepare a detailed report of equipment and labor, including a project schedule, for submission to the Department's District T/LPA Coordinator.
- l. The Public Entity shall ensure that the contractor and all subcontractors register and enter all required data into B2Gnow and LCPtracker programs. Assistance can be obtained in this effort by contacting the Construction and Civil Rights Bureau (CCRB) as identified in Section 11. The Public Entity shall verify all entries by the contractor and all subcontractors into the B2Gnow and LCPtracker programs. Failure by the Public Entity to adhere to this reporting provision may result in the Project being deemed ineligible for reimbursement.
- m. Ensure construction activities comply with approved design, environmental commitments, right of way activities, utility coordination, ITS, railroad requirements and construction management and testing.
  1. Construction management, testing and inspection services may be eligible for reimbursement if the underlying procurement is consistent with federal aid funding and

- state procurement laws and regulations. Prior approval will be needed from the Department's District T/LPA Coordinator's before awarding the services.
2. The Public Entity's award of contracts for construction management, testing or inspection services shall be independent and shall not be procured through the construction contractor. Unless states otherwise in the Specifications.
  - n. Develop and execute the Project in accordance with the Department's current Specifications or approved equal by the District Engineer and concurred by the State Construction Engineer, and the Tribal/Local Public Agency Handbook.
  - o. Comply with **Appendix A**, "Construction Phase Duties and Obligations," which is hereby incorporated in this Agreement, for construction projects.
  - p. Timely submit and receive all required environmental documentation and authorization for the construction phase to the Project. Copies of all approvals shall be provided to the District T/LPA Coordinator prior to construction.
  - q. Shall register with www.sam.gov and DUNS.
  - r. Conduct an audit pursuant to OMB Super Circular Section 200.501, if the Public Entity has received a combined \$750,000 in Federal Funding.

**5. The Department Shall:**

- a. Assign the District T/LPA Coordinator as the representative to provide technical assistance to develop, monitor and oversee progress under this Agreement during Construction.
- b. Assign a T/LPA Construction Liaison Engineer to oversee the Project for Federal funding compliance.
- c. The District T/LPA Coordinator will timely process accepted requests for reimbursement.

**6. Both Parties Agree:**

Upon termination of this Agreement, the Public Entity shall account for any remaining property, materials or equipment that belongs to the Department, and dispose of it as directed by the Department.

**7. Project Responsibility:**

The Public Entity is solely responsible for ensuring that the Project is carried out to completion. The improvements and services required under this Agreement shall remain the full responsibility of the Public Entity unless stated otherwise in this agreement.

**8. Public Entity Sole Jurisdiction:**

Unless otherwise specified in this agreement the Department is not incorporating this Project into the State Highway System and ownership of the project shall remain with the Public Entity including maintenance, unless otherwise specified or legally agreed upon.

**9. Legal Compliance:**

The Public Entity shall comply with all applicable federal, state and local laws and regulations, and applicable Department policies in the performance of this Agreement. These laws include, but are not limited to: FHWA memorandums; Authorization to proceed and project monitoring at 23 CFR Part 630.106; Agreement provisions at 23 CFR Part 630.112; Project approval and oversight at 23 U.S.C. § 106 [as amended by SAFETEA-LU section 1904]; Single Audit Act Amendments of 1996 (P.L. 104-156)/OMB Circular A-133, Audits of States, Local Governments, and Non-Profit

Organizations; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18; Titles VI and VII of the Civil Rights Act of 1964 and related statutes; Disadvantaged Business Enterprise Program, 49 CFR Part 26; External Equal Opportunity/Contractor Compliance Program, including On-the-Job training requirements, 23 CFR Part 230; the Americans with Disabilities Act, 42 §§ 12101-12213 and 28 CFR Parts 35 and 36; the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252; 2 CFR Part 170; and 2 CFR Part 25.

Additionally, the Public Entity shall comply with all applicable federal, state and local laws and regulations governing environmental issues, workplace safety, employer-employee relations and all other laws and regulations governing operation of the workplace. The Public Entity shall ensure that the requirements of this compliance are made a part of each contract and subcontract on this Project at all tiers.

#### **10. Federal Grant Reporting Requirements:**

Under the Federal Funding Accountability and Transparency Act, the Department is required to report on projects or activities, which are awarded federal grants of \$25,000 or more. This information will be made available to the public on [www.USASpending.gov](http://www.USASpending.gov). For this reporting Public Entity is the "subgrantee".

The type of information the Department is required to report includes:

- a. Name of subgrantee receiving the award;
- b. Amount of award;
- c. Funding Agency;
- d. NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants;
- e. Program source;
- f. Award title descriptive of the purpose of the funding action;
- g. Location of the subgrantee, which includes the Congressional District;
- h. Place of performance of the program or activity, which includes the Congressional District;
- i. Unique identifier – DUNS -- of the subgrantee and its parent organization, if one exists; and,
- j. Total compensation and names of the top five executives of the subgrantee. This information is required, if the subgrantee in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds \$25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code.

The Department will extract as much information as possible from the Public Entity's grant application and standard reports. The subgrantee will be required to provide the total compensation and names of the subgrantee's top five executives, if applicable, and shall register with [www.sam.gov](http://www.sam.gov) and DUNS and provide that information to the Department.

More information on the Transparency Act may be located via the following links:  
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>; and,  
<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

**11. Disadvantaged Business Enterprise (DBE) Program:**

- a. DBE Goal Setting – In accordance with 49 CFR Part 26, The Department establishes an overall state DBE goal tri-annually. In the event the Department assigns a project specific DBE goal, the Public Entity is required to meet that goal through its contractors or demonstrate good faith efforts. The Public Entity shall ensure that DBE provisions and goals are included in its invitations to bid and resulting contracts. DBE payment and utilization information shall be tracked through the B2Gnow software.
- b. Record Keeping Responsibilities – The Public Entity shall appoint a DBE liaison officer and assure that its officer completes and submits required Program forms and information to the Department's Construction and Civil Rights Bureau (CCRB). The CCRB can be contacted as follows:

New Mexico Department of Transportation  
CCRB  
1570 Pacheco Street, Ste. A10  
Santa Fe, New Mexico 87505  
Phone: (505) 629-9890  
Fax: (505) 476-0910

- c. Sanctions – Compliance with the DBE provisions is mandatory. Failure to comply will be treated as a violation of this Agreement. Furthermore, if the Public Entity fails to comply with the DBE provisions, the Department may impose sanctions as provided in 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801, et seq.).
- d. Required Contract Assurance: Each contract the Department signs with the Public Entity Contractor and each subcontract the Public Entity Contractor signs with a contractor or subcontractor must include the following assurance: "The contractor, sub-recipient 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 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor 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 NMDOT deems appropriate which may include but is not limited to:
  - i. Withholding of monthly progress payment;
  - ii. Assessing sanctions;
  - iii. Liquidated damages; and/or
  - iv. Disqualifying the contractor from future bidding as non-responsive

Provision of DBE Program Information: The Public Entity contractor shall provide any DBE related information or data to the District's T/LPA Coordinator or the Department's Office of Construction and Civil Rights Bureau, including but not limited to lists of quoters and DBE monthly participation forms, as required or upon request.

**12. Title VI Program Obligations:**

- a. Public Entity Assurances – Each contract the Public Entity enters into with a construction contractor, design consultant, other consultant or recipient on a project assisted by the United States Department of Transportation (USDOT), and any subcontract thereto, shall include the assurances contained in **Appendix C**.
- b. The Public Entity shall sign and submit the attached Appendix C (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances) to the Department's Construction and Civil Rights Bureau as identified within the Appendix. By signing **Appendix C**, assurance is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Public Entity.
- c. The Public Entity shall require recipients to sign and submit the attached Appendix C (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances) to the Department's Construction and Civil Rights Bureau as identified within the Appendix for each contract the Public Entity enters into with a construction contractor, design consultant, other consultant or recipient on a USDOT-assisted project, and any subcontract thereto.

### **13. Third Party Beneficiary:**

It is not intended by any of the provisions of any part of this 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(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

### **14. New Mexico Tort Claims Act:**

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. This paragraph is intended only to define the liabilities between the parties 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.

### **15. Office of Inspector General Reviews:**

The Public Entity shall provide to all bidders the reporting and oversight requirements that they are bound to from the time of bid submission. The following provisions must be included in all prime contracts, subcontracts, and other contracts for services for a federally-funded project.

- a. Inspector General Reviews. Any Inspector General of a federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using federal funds. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned.
- b. Access of Offices of Inspector General to Certain Records and Employees. With respect to each contract or grant awarded using federal funds, any representative of an appropriate Inspector General appointed under the Inspector General Act of 1978, 5 U.S.C. App. §§ 3 or 8G, is authorized to examine any records of the contractor or grantee, any of its subcontractors or sub-grantees, or any state or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or sub-grant; and to interview

any officer or employee of the contractor, grantee, sub-grantee, or agency regarding such transactions.

1. Allow access by the Government Accountability Office Comptroller General and his representatives to examine any records of the contractor or any of contractor's subcontractors, or any state or local agency administering such contract that directly pertain to, and involve transactions relating to, the contract or subcontract.
  2. Allow the Comptroller General and his representatives to interview any officer or employee of the contractor or any of contractor's subcontractors, or of any state or local government agency administering the contract, regarding such transactions.
  3. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.
- c. New Mexico Department of Transportation/Office of Inspector General. As specified in New Mexico State Transportation Commission Policy Number 30 (CP-30), dated June 2006, has the authority to carry out all duties required. The duties are the same as those specified in Federal Law: Office of Inspector General, 23 U.S.C. §302 (the capability to carry out the duties required by law); 23 U.S.C. §112 (contracting for engineering and design services); the review of Federal-aid construction contracts references; 23 U.S.C. § 106 (project approval); 23 U.S.C. § 112 (letting of contracts); 23 U.S.C. § 113 (prevailing rate of wage); 23 U.S.C. § 114 (construction); 23 CFR Parts 635 and 636 (design build); 23 CFR Part 637 (construction inspection approval); the State Departments of Transportation are responsible for ensuring that all federal-aid projects are carried out in accordance with federal requirements. This responsibility was specifically clarified in 23 U.S.C. § 106, as amended by Section 1904(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59).

#### **16. Access to Records, Accountability of Receipts and Disbursements:**

There shall be strict accountability for all receipts and disbursements. The Public Entity shall maintain all records and documents relative to the Project for five (5) years after completion. Project files should be kept in accordance with the Department's "Office Procedures Manual" current edition as of the date of execution of this agreement. The Public Entity shall furnish the Department, State Auditor, or appropriate Federal Auditors, upon demand, any and all records relevant to this Agreement for auditing purposes. If an audit determines that a specific expense was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense identified shall be reimbursed to the Department within thirty (30) days of written notification.

#### **17. Appropriation**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the State Legislature, or the Congress of the United States, if federal funds are involved. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice given by the Department to the Public Entity. The Department is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, obligated by FHWA, encumbered, and approved for expenditure by the Department. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

**18. Scope of this Agreement:**

This Agreement constitutes the entire Agreement between the Parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**19. Severability:**

In the event that 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.

**20. Term:**

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement shall terminate on **September 30, 2020**. In the event a contract term extension is needed, the Public Entity shall provide written notice to the Department Region T/LPA Coordinator sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Upon termination, neither party shall have any obligation after said date except as stated in Sections 7 and 16 above.

**21. Termination:**

- a. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed between the Public Entity and a contractor within three (3) months from the date this agreement is effective.
- b. The Department will review inactive projects on a quarterly basis. An inactive project is a project for which no expenditures have been charged against federal funds for the past three (3) months. If the Department determines a project to be inactive, the Department may, as directed by FHWA, redirect the unexpended balance pursuant to 23 CFR Part 630.106.
- c. The Department may, at its option, terminate this Agreement if the Public Entity fails to comply with any provision of this Agreement. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of the Agreement.
- d. If Public Entity decides to terminate they will need to submit official letter with justification on why project is being terminated. They will also need to work with Region T/LPA Coordinator to make sure all steps have been followed as per FHWA Termination process.

**22. Principal Contacts and Notices:**

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail), including the Control Number and shall be given to the principal contacts listed below.

**Central Region T/LPA Coordinator**

Luke Smith  
Central Region T/LPA Coordinator  
New Mexico Department of Transportation  
PO Box 90940, Building A

Albuquerque, New Mexico 87199-1750  
Office: 505-798-6708  
E-mail: Luke.Smith@state.nm.us

**District T/LPA Coordinator**

Jill Mosher, P.E.  
T/LPA Coordinator  
New Mexico Department of Transportation  
P.O. Box 91750 Bldg. A  
Albuquerque, New Mexico 87199-1750  
Office: 505-798-6621  
E-Mail: Jill.Mosher@state.nm.us

**Construction Liaison Engineer**

Patricia Bolliger  
T/LPA Construction Liaison Engineer  
New Mexico Department of Transportation  
1570 Pacheco St., STE. A10  
Santa Fe  
Office: 505-469-0329  
E-Mail: patricia.bolliger@state.nm.us

**Public Entity**

Andy Edmondson  
Public Works Director  
Town of Bernalillo  
829 Camino Del Pueblo  
Bernalillo, New Mexico 87004  
Office: 505-867-3311  
E-mail: aedmondson@townofbernalillo.org

**23. Amendment**

The terms of this Agreement may be altered, modified or amended by an instrument in writing executed by the parties.



In witness whereof, the Parties have set their hands and seal the day and year set forth below.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_  
Cabinet Secretary or Designee

Date: \_\_\_\_\_

**REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL**

By: Cynthia A. Christ  
Assistant General Counsel

Date: 12-1-17

**TOWN OF BERNALILLO**

By: \_\_\_\_\_  
Mayor

Date: \_\_\_\_\_

**ATTEST**

By: \_\_\_\_\_  
TOWN OF BERNALILLO Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM BY THE TOWN OF BERNALILLO ATTORNEY**

By: \_\_\_\_\_  
TOWN OF BERNALILLO Attorney

Date: \_\_\_\_\_

**AMENDMENT # 1 To  
Professional Services Agreement  
By and Between  
Sandoval County and  
Town of Bernalillo  
To Provide Ambulance Transport**

**THIS AMENDMENT**, to the Professional Services Agreement (herein "Agreement"), entered into July 1, 2016, recorded in the Office of the Clerk as document # \_\_\_\_\_ between and the Town of Bernalillo a political subdivision of the State of New Mexico (hereinafter referred to as the "Town") and the County agree as follows: Sandoval County (hereinafter referred to as the "County"), a political subdivision of the State of New Mexico,

**WHEREAS**, the Contract requires the following amendments;

**ARTICLE 4. COMPENSATION**

**B. Payment** The Town will pay the contractor an additional \$64,395.34 for ambulance transport services starting January 1, 2018 through June 30, 2018. Payments will be changed to \$57,197.67 on April 1, 2018, and June 1, 2018.

Starting July 1, 2018 the Town will pay the contractor \$228,790.68 for ambulance transport services through June 30, 2019 to be paid in four (4) equal monthly payments of \$57,197.67 with due dates as follows: October 1, 2018, January 1, 2019, April 1, 2019, and June 1, 2019.

**C. County Responsibility** The contractor will hire six new staff on January 8, 2018 and will place them training until March 1, 2018. On March 1, 2018 a third medic unit will be staffed.

**NOW THEREFORE**, the parties hereto do mutually agree as follows:

**ARTICLE 27- ENTIRE AGREEMENT**

The Contract documents consist of the following:

- (a) The original contract; and
- (b) This amendment to the original contract.

**The rest and remaining terms of the Contract shall remain in full force and effect.**

**Attachment B**