

MEMORANDUM OF UNDERSTANDING
AMONG
THE NEW MEXICO DEPARTMENT OF TRANSPORTATION,
THE NEW MEXICO MAINSTREET PROGRAM OF THE
NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT,
AND THE NEW MEXICO HISTORIC PRESERVATION DIVISION
OF THE NEW MEXICO CULTURAL AFFAIRS DEPARTMENT

FOR

COOPERATION IN PLANNING AND COORDINATION OF RESOURCES

This Memorandum of Understanding (MOU) is entered into this 10 day of April, 2017 among the New Mexico Department of Transportation (NMDOT), the New Mexico MainStreet Program of the New Mexico Economic Development Department (NMMS), and the New Mexico Historic Preservation Division of the New Mexico Cultural Affairs Department (NMHPD). The purpose of this MOU is to maximize the State's effectiveness in assisting local communities with future revitalization and economic growth by coordinating the agencies' funding and consultation responsibilities under state and federal law with reference to the following:

RECITALS

- A. WHEREAS, NMMS, a licensed and accredited program of the National Main Street Center, Inc., and housed in New Mexico's Economic Development Department is responsible for asset-based community economic development within New Mexico; and
- B. WHEREAS, NMMS, the New Mexico Arts & Cultural District program, and the Frontier Communities Initiative were created by New Mexico state statutes, NMSA 1978, 15-5A-1 to 7, ch. 160 § 1; and
- C. WHEREAS, NMMS serves more than 50 local programs and initiatives through its MainStreet and Arts & Cultural District programs and its Historic Theater, Cultural and Heritage Corridors and Frontier Community Initiatives; and
- D. WHEREAS, NMMS maintains as one of its revitalization and redevelopment performance measures a preservation work ethic partnering with NMHPD on historic preservation projects; and
- E. WHEREAS, many of the MainStreet Districts where NMMS programs and initiatives are focused have NMDOT roadways which serve as commercial transportation, civic gathering places, places of commerce and pedestrian activity, and cultural and heritage links within the district or as connectors between towns and villages; and
- F. WHEREAS, NMMS wishes to continue its growing collaboration with NMDOT and NMHPD to leverage resources and partner knowledge, skills, and expertise for the good of the citizens, property owners, businesses, and residents within its local affiliates; and

- G. WHEREAS, the NMHPD is a division of the New Mexico Department of Cultural Affairs, and its Division Director, the State Historic Preservation Officer (“SHPO”) is charged with responsibilities of preserving and protecting the prehistoric, historic, and cultural heritage of New Mexico for the benefit of present and future generations under both state and federal statutes and regulations: the Cultural Properties Act (NMSA 1978, §§ 18-6-1 to 17, as amended; NMAC Title 4, Chapter 10, parts 3-11); the Cultural Properties Preservation Act (NMSA 1978, §§ 18-6A-1 to 6, NMSA 1978; NMAC Title 4, Chapter 10, part 13); the Prehistoric and Historic Sites Preservation Act (NMSA 1978, §§ 18-8-1 to -8; NMAC Title 4, Chapter 10, part 12); and the National Historic Preservation Act, as amended (NHPA), 54 U.S. C. § 300101 et seq., as amended, and associated regulations, 36 CFR Part 800; and housed in New Mexico’s Cultural Affairs Department and is responsible for preservation-related tasks in the State; and
- H. WHEREAS, NMMS and the NMDOT is responsible for consultation with NMHPD to consider their effects on historic resources to improve communication and facilitation of interagency review; and
- I. WHEREAS, the NMDOT, pursuant to NMSA 1978, Section 67-3-6 et seq., is responsible for state highways, which includes the duty to construct, repair, and maintain highways in a manner consistent with state and federal laws; and
- J. WHEREAS, the NMDOT, which is based in Santa Fe and has six District Offices throughout the State, partners with the Federal Highway Administration (FHWA) to deliver the Federal Aid Highway Program, which provides federal funding for state and local roads; and
- K. WHEREAS, under federal regulations, urban and regional planning organizations have been established throughout the state and they partner with the NMDOT to develop long-range plans and propose highway projects; and
- L. WHEREAS, the NMDOT maintains a multi-year list of selected projects, resulting from the collaboration with the urban and regional planning organizations, known as the Statewide Transportation Improvement Program (STIP); and
- M. WHEREAS, the NMDOT, through STIP, grants funding to local communities and supports them throughout the project, which includes establishing a Cooperative Project Agreement, engineering design, environmental certifications, Right-of-Way, procurement and construction; all of which must be within federal and state guidelines; and
- N. WHEREAS, the NMDOT, pursuant to NMSA 1978, Sections 67-3-28 and 67-3-69, has the authority to cooperate with, and enter into, agreements with local, state, and federal agencies to build and maintain roads and to develop and operate a public mass transportation system; and
- O. WHEREAS, an agency’s knowledge of other state-funded activities affecting program areas shall encourage that agency’s good faith efforts to inform the other agencies of said activities; and
- P. WHEREAS, this agreement does not supersede any existing agreements between the parties herein.

NOW, THEREFORE, the NMDOT, NMMS, and NMHPD agree on an approach to coordinate and partner with each state agencies' resources, funding, and consultation responsibilities, including the following:

I. DEFINITIONS

The following definitions apply throughout this document:

- a. "Agency" means the New Mexico MainStreet (NMMS) (a program of the New Mexico Department of Economic Development), New Mexico Department of Transportation (NMDOT) and/or the New Mexico Historic Preservation Division (NMHPD), a division of the New Mexico Department of Cultural Affairs.
- b. "Agency Contact or Agency Contacts" means the identified contact person or persons at the agency.
- c. "Arts & Cultural District" means the creative economy program established by the state legislature through the Arts & Cultural District Act of 2007, making the NMMS Director the State Coordinator of the program.
- d. "Arts & Cultural District Cultural Economic Development Plan," means a formal cultural plan facilitated by a professional cultural planner in coordination with the community, adopted by the local governing body, focused on the development of cultural resources, assets, and institutions within an Arts & Cultural District.
- e. "Cultural and Heritage Corridors Initiative" means the program under the administration, oversight and implementation of the NMMS program to support preservation, conservation, and interpretation along New Mexico's transportation corridors that historically linked the local communities participating in one of the NMMS Programs and Initiatives.
- f. "Federal Aid Highway Program" means the federally-assisted program of State-selected projects funded by the Federal Highway Administration.
- g. "Frontier Communities Initiative" means the program established by New Mexico state statute in 2013 to provide economic development assistance for a catalytic project in communities under 7,500 in population under the administration and implementation of the New Mexico MainStreet Program.
- h. "Great Blocks on MainStreet Initiative" means the program provided by NMMS to identify a focused exemplary catalytic project that incorporates best design practices to "shovel ready" construction document approval. The project can include great streets design, building façades rehabilitation, wayfinding systems/signage, placemaking, with the goal of protecting the unique character of the defined service boundary while increasing economic vitality and viability of its commercial core.
- i. "Historic Theaters Initiative" means the program developed as a partnership program between the Economic Development Department's Financial Development Team and the NMMS program to renovate historic theaters that are either vacant or under-utilized.
- j. "In writing" means a letter or notice that may be forwarded via U.S. Mail, e-mail, facsimile, or hand-delivered in person or by messenger.
- k. "Lead Agency" means the agency responsible for project initiation.
- l. "Letter of Intent" means a document, in writing, that outlines one or more courses of action between two or more parties.
- m. "MainStreet Master Plan" means a formal planning process conducted by a professional urban planner with community stakeholders, in a MainStreet or Arts & Cultural District, or Frontier Community Initiative or a Corridor Management Plan for a Cultural and Heritage

Corridor Initiative, which includes community economic development and financing strategies, to be adopted by the local governing body with direct jurisdiction over the area being planned, which guides future public and private sector reinvestment that increases economic health and well-being.

- n. "MainStreet District Metropolitan Redevelopment Area" Plan means a municipally enabled planning process created by the New Mexico Redevelopment Code state statute as a revitalization and redevelopment tool for economic growth projects within a MainStreet, Arts & Cultural District, or a catalytic economic development project area in a Frontier Community. The MRA Plan is a physical planning process conducted by a professional urban planner with community stakeholders, which includes community economic growth and financing strategies to be adopted by the municipality which guides future public and private sector reinvestment that increases economic health, assists redevelopment, and increases community livelihood and well-being.
- o. "Metropolitan planning area" means an urbanized area as designated by the Bureau of Census, with a population of at least 50,000.
- p. "MPO" means a Metropolitan Planning Organization and refers to the policy board of one of the five (5) organizations created and designated to carry out the metropolitan transportation planning process in New Mexico.
- q. "National Historic Preservation Act" (NHPA), 54 U.S.C. § 300101 et seq., means the legislation enacted in 1966 by the federal government intended to preserve historic resources in the United States of America.
- r. "National Register of Historic Places" means the United States federal government's official list of districts, sites, buildings, structures, and objects deemed worthy of preservation.
- s. "New Mexico MainStreet Program" (NMMS) means the State Coordinating Program accredited and licensed by the National Main Street Center, Inc. a subsidiary of the National Trust for Historic Preservation and created in New Mexico by the state legislature through the MainStreet Act of 1984.
- t. "New Mexico Department of Transportation, District Office" means one of the six (6) District Offices as follows: District 1 in Deming, District 2 in Roswell, District 3 in Albuquerque, District 4 in Las Vegas, District 5 in Santa Fe, and District 6 in Milan. District Offices are responsible for administration, coordination, and supervision of workforces engaged in highway and bridge design, maintenance, and construction within designated boundaries.
- u. "Non-Metropolitan" means a geographic area outside designated metropolitan planning areas.
- v. "Party or Parties" means those agencies or organizations that are signatories to this agreement.
- w. "MainStreet Revitalization Plan" means a conceptual plan created through facilitation of community stakeholders in a MainStreet or Arts & Cultural District, Frontier Community, or Cultural and Heritage Corridor, by an urban planner developing a community process to guide the future vision of a project or town center for the community's economic redevelopment, providing financing strategies and public and private sector reinvestment and recommendations. The MainStreet Revitalization Plan helps build community consensus and provides guidance to the community in any future formal planning process.
- x. "RTIPR" means the Regional Transportation Improvement Program Recommendations and is a list of transportation projects that have been reviewed for inclusion based on the project feasibility and project identification documentation.

- y. "RTPO" means one of the seven (7) Regional Transportation Planning Organizations established by state statute within New Mexico to carry out the non-metropolitan transportation planning process.
- z. "State Register of Cultural Properties" means the State of New Mexico's official list of districts, sites, buildings, structures, and objects deemed worthy of preservation.
- aa. "TIP" means the Transportation Improvement Program for one of the five MPOs.

II. QUALIFICATIONS

Each agency, including respective staff and any consultants, shall:

- a. Assist the other agencies in the education of appropriate staff to fulfill the conditions of the MOU, specifically on the regulatory responsibilities under state and federal law.
- b. Endeavor to conduct itself in a professional manner at all times.
- c. Respect the time and efforts of partner agencies.
- d. Communicate clearly regarding all commitments.

III. STIPULATIONS

- a. Each Agency which is party to this MOU shall designate a lead individual who will be responsible for its implementation. In addition, at the commencement of planning for each project, each agency shall identify a project lead individual as "Agency Contacts" who will complete timely communication and represent each agency.
- b. The Agency Contacts shall meet a minimum of three times each year to review upcoming projects. Best efforts shall be made to schedule meetings that allow each agency to implement its responsibilities under state and federal law and other regulatory responsibilities.
- c. When any work engages design, planning, or development activities, notice shall be made in writing from Lead Agency to Agency Contacts. If issues arise that require timely resolution, Agency Contacts will convene to develop solutions. Project documentation will be provided with a minimum of ten (10) working days in advance of the meeting.
- d. The Lead Agency's responsibilities include:
 - 1. The initiation of a formal project notification via an official letter of intent to all Agency Contacts, followed by sufficient supporting documentation regarding the project's scope, conceptual designs, photographs of existing conditions, and full size drawings when available.
 - 2. Agency contacts will provide comments in writing and may request additional information or schedule a meeting or presentation within fifteen (15) days of receipt.
 - 3. The initiation of a formal project notification to an MPO or RTPO shall be made through an official letter of intent. The MPO or RTPO may request a formal presentation, particularly if the project needs to be incorporated into the MPO's TIP or the RTPO's RTIPR to be eligible for state or federal funding through NMDOT.
- e. The Lead Agency may defer consultation to an outside contractor or consultant, if:
 - 1. Notification of this deferral has been completed in writing to Agency Contacts.

IV. AMENDMENT

Any signatory to this agreement may request that it be amended, whereupon the signatories shall consult to attempt to reach agreement on the proposed amendment. No amendment shall be effective unless signed by all parties hereto.

V. TERM AND TERMINATION

This agreement expires no later than five (5) years from the date of execution at which time it may also be renewed by unanimous assent of the parties. This agreement may be unilaterally terminated by any signatory upon a 90 day written notice to all parties.

VI. PERIODIC REVIEW

Within two years after execution of this MOU, or no later than January 2021, and every three years thereafter the Agencies shall convene a meeting to review the progress of this MOU and compliance with this understanding.

VII. PRINCIPAL CONTACTS AND NOTICES

The principal contacts for this MOU are listed below. Except as otherwise specified, all notices shall be in writing and shall be given to the principal contacts as listed below.

Director, New Mexico MainStreet Program in the Economic Development Department.

Director, New Mexico Historic Preservation Division, Cultural Affairs Department.

Director, Asset Management & Planning Division, New Mexico Department of Transportation.

VIII. SIGNATURES

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

NAME: Matthew Geisel, Cabinet Secretary

SIGNATURE: 

DATE: 28/Mar/2017

NEW MEXICO DEPARTMENT OF TRANSPORTATION

NAME: Tom Church, Cabinet Secretary

SIGNATURE: 

DATE: 4/10/17

NEW MEXICO CULTURAL AFFAIRS DEPARTMENT

NAME: Veronica Gonzales, Cabinet Secretary

SIGNATURE:  

DATE: 4.05.17

Approved For legal Sufficiency

Cynthia A. Christ 5-9-17

Asst. General Counsel, NMDOT