



State of New Mexico General Services Department

Contract

Awarded Vendor:
0000052292
New Mexico Logos, Inc.
8601-C Washington NE
Albuquerque, NM 87113

Telephone No. (505) 836-5170


Contract Number: 70-805-17-15821

Payment Terms: See Contract

F.O.B.: See Contract

Delivery: See Contract

Ship To:
New Mexico Department of Transportation
As Requested

Procurement Specialist: Savannah Quintana 

Telephone No.: 505-827-0483

Invoice:
New Mexico Department of Transportation

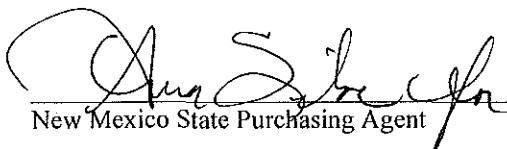
For questions regarding this contract please contact:
James Ortega (505) 827-5135

Title: NMDOT Logo Sign Programs

Term: April 10, 2018 – April 9, 2022

This Contract is made subject to the “terms and conditions” shown as indicated in this Contract.

Accepted for the State of New Mexico



 New Mexico State Purchasing Agent

Date: 4/9/2018

Purchasing Division, 1100 St. Francis Drive, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
AGREEMENT FOR ADMINISTRATION OF LOGO SIGN PROGRAM

This Agreement is between the **NEW MEXICO DEPARTMENT OF TRANSPORTATION** (“Department” or “NMDOT”), and **NEW MEXICO LOGOS, INC.**, (“Contractor”). This Agreement is effective as of the date of the last party to sign it on the signature page below.

It is agreed between the parties:

1. Scope of Work.

The Contractor agrees to administer the Department’s Logo Sign Program (Program) as described in **Appendix A, Scope of Work.**

2. Compensation.

a. Total Compensation: The Department shall not directly compensate the Contractor for its costs or expenses involved in the performance of this Agreement. Total Compensation under this Agreement shall be the fees generated by administration of the Program. The fees will be paid by businesses participating in the Program, based on **Appendix A, section on Fees and Agreements, subsections A and B.** The fees will be paid directly to the Contractor. The Contractor shall remit an annual sum to the Department of Fifty Percent (50%) of the gross yearly revenues but not less than \$500,000.00 per year.

b. Taxes: The Contractor is responsible for making payment of all federal, state and local taxes applicable to its operations and any persons employed by the Contractor.

c. Travel and Per Diem: No direct and separate travel or per diem shall be paid by the Department except as provided hereto. All direct costs of travel, per diem, or living expenses for the Contractor’s staff shall be the sole responsibility of the Contractor.

3. Effective Date and 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 four (4) years from the effective date unless terminated pursuant to Section 4, “Termination,” or Section 6, “Appropriations.” The Department may extend this agreement for an additional four (4) year term. In no event shall the total term of this agreement exceed eight (8) years.

4. Termination.

- a. Each party may terminate this Agreement by providing thirty (30) days written notice to the other party. By such termination neither party may nullify obligations already incurred for performance or failure to perform for the work rendered prior to the date of termination. Neither party shall have any obligation to perform services or make payment for services rendered after such date of termination.
- b. Each party may terminate this Agreement for default of the other party as described in Section c below.
- c. An act of default or breach of contract shall occur in the event that:
 1. The Contractor:
 - a. Declares bankruptcy, becomes insolvent or is declared bankrupt
 - b. Allows any final judgment to stand against it unsatisfied for a period of ten (10) days
 - c. Makes an assignment for the benefit of creditors
 - d. Fails to pay contractors hired for carrying out the provisions of the agreement in a timely manner.
 2. Either party fails to perform its material obligation required under this agreement. However, failure by the Contractor to install a specific information panel at an interchange shall not constitute failure to perform a material obligation, if such specific information panel may not be reasonably expected to produce revenues equal to the cost of the sign over a seven (7) year period. Documentation of the financial aspects of these provisions shall be provided to the Department.
- d. After an act of default or breach of contract by a party, the other party, once it learns of the default, shall by written notice specifying the breach or default, give the defaulting party twenty (20) days after such notice to rectify and correct its default or breach. If within twenty (20) days after receipt of a written notice, the breaching party has not corrected the breach the other party may terminate the Agreement by a second written notice. A notice shall be considered duly served when it is delivered either at a party's business office to a responsible person of suitable age and discretion or by certified or registered mail to a party's last known business address.
- e. After notice of termination has been given by either party, the contractor shall have no further obligation to promote, develop, or market the program, but shall continue to operate the program and maintain the signs as required until the effective date of termination. Signs for all businesses approved up to the date of termination shall be installed and maintained as herein described.
- f. No default in the performance of the terms, covenants, or conditions of this contract on the part of either party shall be deemed to continue if the Department or Contractor is delayed or prevented from remedying the default by:
 1. Strike or other labor dispute
 2. Any order, directive, or other interference by a municipal, state, federal, or other governmental official or agency which materially affects the performance of either party under this contract

3. Any other cause reasonably beyond the control of the party in default; provided, however, that if and when the occurrence or condition which delayed or prevented the remedying of such default shall cease or be removed, it shall be the obligation of the defaulting party, without further delay, to commence the correction of such default or to continue the correction thereof.
- g. Notwithstanding the foregoing, this agreement may be terminated by the Department upon written notice to the Contractor:
 1. If, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or
 2. The Agreement is terminated pursuant to Section 6, Appropriations, or Section 15, Compliance with Laws, failure to comply with State Workers Compensation Laws.

5. Ownership rights at termination.

- a. Contractor termination or default: If the contractor terminates this agreement or defaults, ownership of contract rights and any rights to specific information panels constructed at the various interchanges shall pass to the Department.
- b. Buyout Provisions: If the Department terminates this Agreement prior to the expiration of the initial four (4) year contract period with no default on the part of the Contractor, ownership of contract rights and any rights to the specific information panels, constructed at the various interchanges shall pass to the Department. In such event, the Department shall pay the Contractor based on the following formula:

$$[(\text{Annual Revenue}) - (\text{Revenue Share}) \times (\text{Years}) = (\text{Buyout})^*$$

The follow definitions apply:

- **Buyout** means the price paid by the Department to Contractor for early cancellation of contract.
- **Years** means the time remaining on the contract at the effective date of cancellation. Partial years shall be expressed as a percentage of a year rounded to the nearest ten percent (10%).
- **Annual Revenue** means the contractor's revenues for the most recent twelve (12) month period at effective date of cancellation.
- **Revenue Share** means the amount of revenue paid (or previously paid) to the Department for the most recent twelve (12) month period at effective date of cancellation.

*For example, if the Department cancels the Agreement at the end of year two (2) of the initial contract period, the buyout would be as follows:

$$[\$2,000,000 (\text{Annual Revenue}) - \$900,000 (\text{Revenue Share}) \times 2 (\text{Years}) = \$2,200,000(\text{Buyout})$$

- c. Extension: If the contract is extended an additional four (4) years, and the Department terminates the contract in that second four (4) year period but before the end of the eighth (8th) year with no default on the part of the Contractor, ownership of the contract rights and any rights to the specific information panels constructed at the various interchanges shall

pass to the Department. The Contractor shall not be entitled to any compensation from the Department.

- d. Expiration at End of Term: If the Agreement expires, ownership of the contract rights and any rights to the specific information panels constructed at the various interchanges shall pass to the Department.
- e. Ownership of Business Signs: The business signs will be owned by the individual businesses. On or before the termination date of this agreement, the contractor shall remove and return the business signs to their respective owners if the program is to terminate; otherwise, the business signs shall remain with the specific information panel and shall become the responsibility of the Department.

6. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico or the Congress of the United States. If sufficient appropriations and authorizations are not made by the Legislature or the Congress of the United States, this Agreement shall terminate upon written notice being given by the Department to the Contractor. The Department is not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the Department. The Department's decision as to whether its funds are available shall be final. If the Department proposes an amendment to unilaterally reduce funding, the Contractor has the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

7. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Department and the State of New Mexico from all actions, proceeding, claims demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the breach of this agreement — including but not limited to breach of contract, unfair business practices, antitrust, RICO, fraud — or performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement.

In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Department and the Risk Management Division of the New Mexico General Services Department by certified mail.

The indemnification obligation shall not be limited by the existence of any insurance policy or by limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor may be retained, as necessary, to satisfy any outstanding

claim that the Department may have against the contractor.

Any liability incurred by the Department 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.*

8. Insurance.

The Contractor shall procure insurance, as detailed below, and provide a Certificate of Insurance. The limits cited below are minimum limits. The Department does not intend that these limits define what constitutes adequate insurance coverage. The insurance coverage required shall in no way limit the Contractor's liability under this Agreement

The Engineer may purchase an umbrella or excess policy to secure these limits. Any umbrella or excess insurance must follow form equal to or broader in coverage than the underlying insurance requirements, including but not limited to additional insurance endorsement.

1. Minimum Scope and Limits

a. General Liability – Occurrence Form

The Policy shall include the following:

1. Personal and Bodily Injury: \$1,000,000 each person; \$2,000,000 each occurrence (annual aggregate)
2. Property Damage: \$2,000,000 each occurrence (annual aggregate)
3. Products – Completed Operations Aggregate: \$1,000,000. Products and completed operations coverage shall be maintained for three (3) years after completion of design
4. Personal and Advertising Injury: \$1,000,000
5. Blanket Contractual Liability – Written and Oral: \$1,000,000
6. Each Occurrence: \$1,000,000

b. Business Automobile Liability:

The Policy shall cover all vehicles, owned, hired and/or non-owned used in the performance of this Agreement.

1. Personal and Bodily Injury: \$1,000,000 each person; \$2,000,000 each occurrence (annual aggregate)
2. Property Damage: \$2,000,000 each occurrence (annual aggregate)

c. Professional Liability (Errors and Omissions)

1. Each Claim, \$1,000,000
2. Annual Aggregate, \$2,000,000

In the event that the Professional liability insurance is written on a claims-made basis, the Contractor warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Agreement is completed.

d. Workers Compensation and Employers Liability

1. Workers Compensation: Comply with statutory requirements, as amended, under the New Mexico Worker's Compensation Act (NMSA 1978, Sections 52-1-1 et seq.) and the New Mexico Occupational Disease Disablement Law (NMSA 1978, Sections 52-3-1 et seq.).
2. Employers' Liability
 - i. Each Accident: \$1,000,000
 - ii. Disease – Each Employee: \$1,000,000
 - iii. Disease – Policy Limit: \$1,000,000

2. Additional Insured

The General and Automobile Liability policies shall name the Department as an additional insured. The form shall conform to the most current version of the Insurance Services Office's CG 2010, Additional Insured Endorsement Form. The Certificate of Insurance shall state that the coverage provided under each policy is primary over any other valid and collectible insurance. Such additional insured shall be covered to the full limits of liability purchased by the Engineer, even if those limits are in excess of those required by this Agreement.

9. Performance and Surety Bonds

The contractor shall submit a performance bond of \$500,000 prior to the award of the Contract. As construction of the specific information panels takes place on state property and results in a structure or improvement with possible attendant lien questions, the Contractor shall be required to provide a contractor's performance/payment bond for specific information panel construction and maintenance to the Department, in the amount of \$250,000 for a period of two (2) years from the effective date of this agreement.

For the remaining term of the agreement and subsequent extension, the bond amount shall be set by the Department.

The Contractor's performance/payment bond shall be approved by the appropriate state officers prior to any construction of the specific information panel. The bond shall be issued by a surety company authorized to do business in New Mexico and approved by the United States Treasury Department Circular 570.

10. Status of Contractor.

The Contractor and its agents and employees are intended to be independent contractors performing professional services for the Department and are not employees. The Contractor and its agents and employees will not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

11. Subcontracting.

The Contractor shall not subcontract any portion of the scope of work without prior written approval of the Department. The Contractor is responsible for the work performance of the subcontractors and for any compensation to be paid to the subcontractors. A subcontractor does not relieve the Contractor from its obligations and liabilities.

To the fullest extent permitted by law, the Contractor shall require the subcontractor to defend, indemnify and hold harmless the Department and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the breach of this Agreement — including but not limited to breach of contract, unfair business practices, antitrust, RICO, fraud — or performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement.

The Contractor shall require the subcontractor to have general liability and professional liability insurance and that the Department is named as an additional insured on the subcontractor's policy. A certificate of insurance must be provided to the Department and it shall state that the coverage provided under the policy is primary over any other valid insurance.

12. Assignment.

The Contractor shall not assign or transfer any interest or assign any claims for money due or to become due without prior written approval of the Department.

13. Confidentiality.

Any confidential information provided to or developed by the Contractor shall be kept confidential and shall not be made available to any individual or organization without prior written approval by the Department.

14. The Product of Service; Copyright.

All materials developed or acquired by the Contractor shall become the property of the State of New Mexico and shall be delivered to the Department no later than the termination date of this Agreement. Nothing developed or produced in, whole or in part, by the Contractor shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor. However, it is understood that some of the materials utilized in this project have previously been copyrighted by the Contractor.

15. Compliance with Law.

Contractor, its employees and agents shall comply with all applicable federal, state and local laws and ordinances.

The Contractor agrees to abide by all state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity, including the New Mexico Human Rights Act, NMSA 1978, Sections 28-1-1 et seq. In

accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, 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. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

Contractor, its employees and agents shall comply with state laws applicable to workers compensation benefits for its employees, including the Workers' Compensation Act, NMSA 1978, Sections 52-1-1 *et seq.*, and applicable rules. If Contractor fails to comply, this Agreement may be terminated by the Department.

16. Records and Financial Audit.

The Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and/or services rendered for three (3) years from the date of final payment. The Department and the State of New Mexico shall have the right to inspect and audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Department to recover excessive or illegal payments.

17. Conflict of Interest; Governmental Conduct Act.

The Contractor represents that it has no interest and shall not acquire any interest, direct or indirect, during the term of this agreement which would conflict with the performance of services. The Contractor shall comply with the New Mexico Governmental Conduct Act, NMSA 1978, Sections 10-16-1, *et seq.*, the New Mexico Financial Disclosure Act, NMSA 1978, Sections 10-16A-1 *et seq.*, and the campaign disclosure provision of the Procurement Code, NMSA 1978, Section 13-1-191.1. The Contractor shall complete a Campaign Contributions Disclosure Form, which will be attached as **Appendix C**.

18. New Mexico Employees Health Coverage.

- a. If Contractor 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, Contractor certifies, by signing this agreement, 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 Contractor and the state exceeds \$250,000.
- b. Contractor 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 state.
- c. Contractor agrees to advise all employees of the availability of state publicly financed health care coverage programs.
- d. The requirements of this section do not apply to Government entities.

19. Employee Pay Equity Reporting.

Contractor agrees 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, to 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 contractor has (250) or more employees, contractor must 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 extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to 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. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to 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. Contractor also agrees to levy 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. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will 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. 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. 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.

Notwithstanding the foregoing, 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.

20. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the Department, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

21. Applicable Law.

This Agreement is governed by the laws of State of New Mexico. Venue shall be proper only in the First Judicial District Court in and for the County of Santa Fe in any action relating to this Agreement. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

Contractor represents that it is properly organized under the laws of the State of New Mexico, as applicable, and is in good standing to do business in the State of New Mexico. The Contractor shall procure all permits and licenses as required by law and pay all charges, fees, royalties, and give all notices necessary and incidental to the due and lawful prosecution of the work.

22. Penalties for Violation of Law.

The New Mexico Procurement Code, NMSA 1978 Sections 13-1-28, et seq., including regulations and policies, impose civil and criminal penalties. Violation of federal laws and regulations could result with the loss of federal funds as well as penalties under 18 U.S.C. Section 1001. The New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

23. Merger.

This Agreement incorporates all the agreements, covenants and understandings between the parties concerning its subject matter, and all such covenants, agreements and understandings have been merged into this Agreement. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

24. No Third-Party Beneficiary.

No provision of this Agreement creates in the public, or any member thereof, who is not a signatory, a third-party beneficiary. Nor does any provision authorize anyone not a signatory to this Agreement to maintain a suit for wrongful death, bodily or personal injury, damage to property, or any other claim.

25. Severability.

If any term or condition of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

26. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. Principal Contacts and Notices

The principal contacts are listed below. Except as otherwise specified, all notices shall be in writing (which includes e-mail) and shall be given to the principal contacts listed below.

Andrew Gallegos
State Maintenance Bureau
New Mexico Department of Transportation
PO Box 1149, SB-4
Cell: 505-629-5565
E-mail: Andrew.gallegos@state.nm.us

David Cremer
General Manager
New Mexico Logo, Inc.
8601-C Washington NE
Office:(505)-836-5170 / (888)-959-5646
E-mail: dcremer@interstatelogos.com


28. Amendment.

This Agreement shall not be altered, changed or amended except by an instrument in writing and executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

New Mexico Department of Transportation

By: 
Cabinet Secretary or Designee

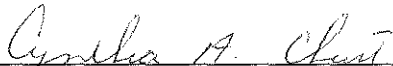
Date: 3/23/18

New Mexico Logo, Inc.

By: _____
David Cremer, General Manager

Date: _____

Approved as to form and legal sufficiency by the Department's Office of General Counsel.

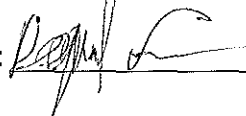
By: 
Assistant General Counsel

Date: 3-22-18

I hereby certify that New Mexico Logo Inc. state tax identification number 02-405940004, is registered with the New Mexico Taxation and Revenue Department for payment of gross receipt taxes.

New Mexico Taxation and Revenue Department

Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.

By: 

Date: 3/22/18

General Services Department, State Purchasing Agent

By: 

Date: 4/9/18


In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

New Mexico Department of Transportation

By: _____
Cabinet Secretary or Designee

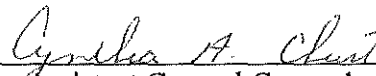
Date: _____

New Mexico Logo, Inc.

By:  _____
David Cremer, General Manager

Date: 3-27-18

Approved as to form and legal sufficiency by the Department's Office of General Counsel.

By:  _____
Assistant General Counsel

Date: 3-22-18

I hereby certify that New Mexico Logo Inc. state tax identification number 02-405940004, is registered with the New Mexico Taxation and Revenue Department for payment of gross receipt taxes.

New Mexico Taxation and Revenue Department

By: _____

Date: _____

General Services Department, State Purchasing Agent

By: _____

Date: _____

APPENDIX A

DETAILED SCOPE OF WORK

The Contractor shall provide professional services for:

ADMINISTRATION

- A. Administration of the Specific Information Panel (SIP) Program shall include planning, organizing, directing, and controlling all activities in the logo sign program to assure systematic orderly progress. All activities are to be coordinated with the NMDOT program administrator and NMDOT District Inspectors in order to inform all parties of planned activities and schedules for all phases of work. Immediately after execution of the contract the NMDOT shall arrange meetings with the affected NMDOT personnel to advise all parties of the revised specific information panel program processes and NMDOT personnel responsibilities.
- B. The Contractor shall immediately, upon execution of the contract, proceed with administration of the existing Specific Information Panel Program. The NMDOT shall provide assistance in transferring files, computer files or discs, records, and processes currently maintained for sign construction, business sign placement, maintenance, billing, and other reporting requirements. These transfers are to provide the Contractor with information only. The Contractor shall be required to provide systems, procedures, computer programs, forms, files, billing processes, and any other items necessary to administer the program. Provide required reports, status information, program direction and control to NMDOT.
- C. The Contractor shall maintain an office in New Mexico in the Santa Fe – Albuquerque area. The office shall be adequately staffed and equipped to maintain all phases of the LOGO sign program for the life of the contract, including required documents and reports. This office shall also be equipped with telephone service including an answering machine for 24-hour service and a toll free number for in-state long distance access by businesses or other interests. This office shall maintain the same office hours as the NMDOT General Office; 7:45 a.m. to 11:45 a.m. and 12:30 p.m. to 4:30 p.m., Monday through Friday.
- D. The Contractor shall immediately, after execution of the contract, submit to the NMDOT for approval the following items:
 - 1. Proposed work schedules for marketing, new construction, refurbishing and business sign replacement on all eligible routes.
 - 2. Copy of press releases.

3. Copy of all marketing materials and forms to be used by the Contractor including the business participation agreements.
 4. Site plan format.
 5. Traffic control plans.
 6. Sign layout for each type sign required.
- E. Prior to beginning any construction, refurbishing or business sign replacement activity resulting from marketing, the Contractor must have an approved permit from the responsible NMDOT District Office. This permit shall be developed by interchange and shall include a sign location plan (site plan) showing location of proposed work in relation to existing advance guide and supplemental signs. All work shall be inspected and approved by a District representative as required by NMDOT.
- F. The Contractor shall conduct routine and emergency sign maintenance on the existing system and refurbish and replace signs and supports including new sign installations.
- G. The Contractor shall submit quarterly reports to the NMDOT to include the following:
1. Date, location, route, direction, milepost, interchange name, size and work performed (construction, refurbishing, replacement, maintenance) for each sign structure where work was performed. This includes specific information panels, business signs, and trailblazers.
 2. Date, location, route, direction, milepost, interchange name, size, and disposal information on all permanently removed specific information panels, business signs and trailblazers.

After the initial statewide program is completed including marketing, new construction, and refurbishing, the above reports may be submitted annually.

- H. The Contractor shall submit an annual progress report including the following:
1. Names and addresses of customers participating in the program.
 2. Program gross revenues for the contract year.
 3. Number, milepost number, and name of interchanges where program work has been completed. Information is to be given by route.
 4. Other reports as may be required by NMDOT.

FEES AND AGREEMENTS

A. Annual Fees

The Contractor's fee schedule as pursuant to Paragraph 19C of Rule 18 NMAC 21.3 for the following signs:

1. Mainline (ea.)
 - a. \$850.00 (Eight hundred and fifty dollars) at interchanges with traffic count from 0 to 29,999
 - b. \$1,200 (Twelve hundred dollars) at interchanges with traffic counts of 30,000 or greater
2. Ramp (ea.) \$0 (Zero dollars)
3. Trailblazer (ea.) \$120 (One hundred twenty dollars)

Businesses designated as small businesses will receive a twenty percent (20%) discount off of their first year's annual participation fee.

The billing period for the New Mexico Logo Sign Program will be from the effective date of this agreement to December 31, 2018. After the initial billing period, the contractor will bill all businesses each calendar year.

The business participation forms to be used by the contractor shall include renewal information, refund information, failure to pay remedies, any pro-rata payment arrangements and method of payment (annually or monthly by bank draft), and all costs associated with provision, installation, or maintenance of the business signs. The Contractor may require a portion of the annual fee, as a deposit, by the business prior to sign erection.

B. Business logo installation, maintenance, and fees.

1. The Contractor's fee schedule for the installation, maintenance, removal, or replacement of the business signs is as follows. These fees shall be "one time" fees for each occurrence but may be repeated for each additional occurrence for the following:

- | | |
|---|--------------------------------------|
| (A) Business sign installation | (ea.) \$0 (Zero dollars) |
| (B) Business sign removal | (ea.) \$0 (Zero dollars) |
| (C) Business sign covering | (ea.) \$0 (Zero dollars) |
| (D) Business sign maintenance
(Cleaning, repairing and patching) | (ea.) \$0 (Zero dollars) |
| (E) Business sign replacement | (ea.) \$75.00 (Seventy Five dollars) |

2. The Contractor shall not be liable for damage to business signs caused by acts of vandalism, accidents, natural causes (including natural deterioration) etc. requiring repair or replacement. All costs required to maintain a properly functioning retro-reflective business sign shall be borne by the business.
3. When a business sign is removed it shall be taken to the business during normal business hours. If the sign cannot be left with the business it shall be taken to the Contractor's storage facilities. The business shall be notified of such removal (if possible) and given 30 days in which to retrieve their business sign. After 30 days the sign becomes the property of the Contractor.
4. No business sign shall be displayed which in the opinion of the NMDOT is unsightly, badly faded, or in a substantial state of dilapidation. The Contractor shall remove, replace, or mask any such business signs as appropriate after proper notification and reasonable time is given the business to correct the deficiency.

REMITTANCE

Contractor shall remit an annual sum to the NMDOT of not less than \$500,000 per year. In addition the contractor may offer an additional amount over and above this annual sum as part of their response to this RFP.

ELIGIBLE LOCATIONS

The Specific Information Panels shall be erected and maintained at rural interchanges whether a business is or is not visible to the traveling public from the highway and at suburban or urban interchanges where spacing allows. The NMDOT will make the final determination as to eligible locations.

ELIGIBLE BUSINESSES

The selection by the Contractor of businesses to be displayed on a specific information panel will be made from the businesses conforming to the provisions of the eligibility criteria of Sections 10 and 16 of 18 NMAC 21.3. Businesses must meet the distance requirements from each approach independently in order to be signed on each approach. All distance criteria are to be determined in accordance with provisions stated in Section 10.1 of 18 NMAC 21.3. The NMDOT shall in no way be held responsible or liable for removal of any business sign panel.

- A. For a new specific information panel, priority of businesses advertising will be on a first-come-first-served basis.
- B. The priority of business sign location on the mainline specific information panel may be established.

- C. No business, which has an illegal outdoor advertising sign, will be eligible to participate in the LOGO sign program. It is the Contractor's responsibility to make this determination based on information provided by NMDOT.
- D. When one or more businesses located at an interchange meeting the eligibility requirements agree to participate in the LOGO signing program, the general motorist service sign shall be removed. The general services not included in the logo signing program but available at the interchange shall be signed for using an independently mounted symbolic service sign suspended beneath the advance guide sign as directed by the NMDOT. The Contractor will be responsible for the relocation, mounting, and all necessary supports and hardware. The NMDOT will provide the symbolic service sign panel(s) as required at no cost to the Contractor.
- E. If a participating business is found in non-compliance with the eligibility or other criteria the business shall be notified and given 30 days to correct them or its business sign(s) will be removed and the agreement terminated. Reinstatement will be handled the same as a new applicant.
- F. On December 31 of each year, a fully qualified business may be bumped from the specific information panel by a fully qualified eligible business of the same service located closer to the interchange. In addition, a marginally qualified business may be bumped by a fully qualified business of the same service. The Contractor shall maintain a list of business that wish to advertise and execute this bumping procedure each year.

RESPONSIBILITY OF NMDOT

The NMDOT shall be responsible for Contractor oversight to assure that all items of work required in the contract and proposal documents are performed in accordance with applicable New Mexico statutes, NMDOT regulations, policy, specifications, and standards.

This oversight shall include but is not limited to the following:

- A. Coordinate with the Contractor to achieve an orderly and efficient transfer of current LOGO sign program administration, construction and maintenance including records, documents, etc.
- B. Review and approve all required submittal including permits, quarterly, and annual reports, marketing materials, press releases, work schedules, traffic control plans, and sign layout details.
- C. Review and approve fieldwork including new sign locations, refurbished signs and replacement of failed business signs.
- D. Coordinate NMDOT construction and maintenance activities that impact LOGO sign program activity.

- E. NMDOT may, at its discretion, review on an annual basis all fees and revenues specified in the proposal to determine if adjustments need to be made. Changes may be negotiated considering the Contractor's need to maintain reasonable net profit and the need to maintain reasonable business fees.

MARKETING

A. Inventory

The Contractor shall perform a statewide inventory of all potential businesses including those businesses currently participating in the LOGO sign program. This survey shall be used to initiate marketing processes and to establish a systematic, orderly process of providing eligible businesses the opportunity to participate or to continue participation in the program.

B. Initial Coverage

The initial marketing phase is defined as the process and all activities conducted by the Contractor from the time initial contact is made with a business at a specific interchange to the time the Contractor receives an executed participation agreement and payment of deposit and/or fees from the business. Each individual eligible interchange is to have an initial marketing phase. The process shall allow for renewed development of the LOGO sign program at each eligible interchange in an orderly process. The Contractor shall enter into agreements with eligible businesses providing the specific services of "Gas", "Food", "Lodging", "Camping" or "Attraction".

C. Marketing Information and Agreements

1. Renewed Program Information

The Contractor shall develop brochures and/or information packets to advise new business contacts and current business participants of program details such as eligibility requirements, current fees, and process of participation or continued participation. This shall consist of initial mail-out information followed by face-to-face marketing.

2. News Releases.

The Contractor may use news releases via newspaper or paid advertisement to provide general information concerning any contract administration changes and revised processes of participation.

3. Participation Agreement.

The Contractor shall develop an application form for use by businesses applying to participate or continue participation in the LOGO sign program. The application form shall provide the following information:

- (A) The name of the business, the physical address of the business and the telephone number.
- (B) The type of service the business is applying for.
- (C) Hours and days of operation of business.
- (D) Certification of having obtained all required licenses and/or permits required for that type business.
- (E) The interstate or primary route number, exit number, or interchange name, and the county in which the interchange is located.
- (F) The distance the business is located from the interchange as measured from the GORE to the driveway entrance.
- (G) A detailed checklist for use to show the business meets all of the minimum eligibility criteria outlined in Section 16 of Rule 18 NMAC 21.3.
- (H) The name, address, and telephone number of the contact person who shall be responsible for participation decisions.
- (I) The signature of the owner or responsible operator of the business.
- (J) Provisions to allow the Contractor or NMDOT personnel to inspect the business for compliance with participation and eligibility criteria.
- (K) Information showing all costs or fees to the business for participation.
- (L) Information showing grounds for termination of the agreement.
- (M) The Contractor shall include a provision in all advertising agreements with the business involved with the program to the effect that in case of expiration or termination of the contract with the Department Secretary, the un-expired portions of such advertising agreements shall be subject to cancellation and refund by the Contractor of any unearned prepaid charges.
- (N) If at any time a specific information panel or business sign is not in service for a period exceeding two (2) weeks, the Contractor shall reimburse the affected business on a prorated basis. Such reimbursement shall include the initial two (2) week period.

4. Non-Participation Agreement

The Contractor shall develop forms to be used to show when a business has been offered the opportunity to participate in the program and has refused.

D. Term of Contract

The Contractor shall only enter into contracts with businesses for a minimum of one year.

E. Inspection

The Contractor shall conduct an annual inspection of all participating businesses to ensure they still comply with the eligibility requirements.

F. Customer Satisfaction

The Contractor shall conduct all phases of the marketing process in a manner consistent with good business practices to promote customer satisfaction. The businesses shall be provided a formal process to register complaints or satisfaction.

INSTALLATION AND MAINTENANCE

A. General

1. Existing system

Current specific information panels, business signs, and trailblazer signs in place and scheduled for erection, replacement or maintenance shall become the responsibility of the Contractor immediately upon execution of the contract. The NMDOT shall allow a reasonable time for transfer of information, work orders, and any operational information necessary for this construction and maintenance responsibility. The NMDOT shall supply this information through reasonable transfer of files and recorded information. All LOGO program signs except business signs shall remain or become the property of the NMDOT. The construction approval by NMDOT shall constitute transfer of ownership of new signs and supports to NMDOT. The Contractor shall not own any sign systems within NMDOT right-of-way. Erection and maintenance costs for all signs shall not be reimbursed to the Contractor.

2. Inventory

The NMDOT maintains records of specific information panels and business signs, however it is the Contractor's responsibility to develop a field inventory of all existing signs showing location, size and type of signs in place at or prior to the

time of contract execution. This basic information is required to determine necessary sign modification, addition or replacement required as a result of the marketing process.

3. Sight Clearing

All existing, modified or added specific information panel or trailblazer locations shall be cleared or provided to allow full view by an approaching motorist of total sign surfaces at the distances shown below:

<u>LOCATION</u>	<u>SIGHT DISTANCE</u>
Mainline	800'
Ramp	500'
Trailblazer	250'

Appropriate approvals shall be obtained from the controlling jurisdiction prior to any tree, limb, brush, vegetation or any other clearing operations.

4. Site Plans

Prior to any construction operation, site plans for proposed construction shall be developed and submitted for approval as directed by NMDOT. The site plans shall be developed by interchange for each mainline approach and exit ramp and loop. The plans may be line drawings not to scale contained on 8-1/2" x 11" sheets.

The following information is to be provided as a minimum:

- A. A line drawing showing the mainline approach and exit ramp and loop (if applicable) with sufficient space to show symbols for location of proposed and existing pertinent signs.
- B. Relative location of all existing and proposed signs.
- C. Distances from and to all existing non-specific information panels and proposed logo program signs.
- D. Offset from edge of pavement to near edge of proposed program signs.
- E. Size and type of existing and proposed LOGO program signs.
- F. A title block including space for NMDOT approval.
- G. A description of trailblazer signs and location required for businesses on that interchange.

5. Permits

Execution of the contract constitutes approval by the NMDOT for the Contractor to perform work within the right-of-way for general pre construction fieldwork such as inventories, sign location staking and cross sectioning for support lengths. Such pre-construction work shall include appropriate traffic control as approved by the NMDOT.

Prior to beginning pre-construction work, the Contractor shall advise the District Engineer of the nature and tentative schedule of work.

Prior to beginning any construction activity, the Contractor shall have obtained an approved permit. This permit shall be on the form provided by the NMDOT and shall include the site plan by interchange and an estimated time for beginning construction.

Proper advance notification of actual beginning of construction shall be given as required to NMDOT.

6. Traffic Control

Traffic Control plans shall be developed by the Contractor for approval by the NMDOT. These plans shall show signs, channelizing devices, flashing lights, etc., as required for operations on and off the shoulder of the mainline approaches, ramp and loop approaches and trailblazer location (generally 2 lane and 2 way).

Any other operations requiring different traffic control shall be identified by the Contractor and specific traffic control plans developed for NMDOT approval. The Contractor shall obtain input and NMDOT approval for traffic control devices required for pre-construction operations.

7. Sign Support Sizes

Size of steel beams utilized for support of mainline and ramp specific information panels shall be determined by the Contractor utilizing the design process provided by NMDOT. Calculations for each sign support shall be kept on record for review by the NMDOT as required.

8. As-Built Plans

The Contractor shall provide the NMDOT two (2) sets of as-built plans within 90 days of completion of interchanges. These plans may consist of site plans corrected to show actual sign locations and types.

9. Responsibility for Installation

The specific information panel shall be fabricated and installed by the Contractor. All business signs will be furnished by the business and shall be manufactured in accordance with the NMDOT standard or special specifications and/or supplements thereto, for both materials and workmanship.

No business may alter in any form or fashion the layout of the business sign or the actual business signs once they have been approved. The Contractor will be responsible for determining business sign layout in conformance with NMDOT requirements; however, the NMDOT may at its discretion, require submittal of proposed business sign layouts for NMDOT approval.

At Contractor's expense, the Contractor shall remove, relocate, replace, or otherwise modify existing LOGO program signs as required by NMDOT construction or maintenance operations.

B. New Construction

1. Marketing efforts required of the Contractor and the allowance of 6-panel food, lodging, camping and attraction signs, may require new signs to be installed and possible modification or removal of existing signs. The NMDOT has not made a determination or estimate of quantities included in this work. It is the responsibility of the Contractor to perform necessary business and sign inventories and integrate new sign construction or modification into existing quantities. This may decrease refurbishing quantities or change business sign replacement quantities.
2. ***New sign or modified existing sign construction shall be determined by the Contractor following a systematic inventory and marketing process.***
3. ***Location of signs shall conform to the longitudinal, transverse, and vertical clearances specified in the standard plans and typical layout sheets. These controls include distance between signs, offsets from edges of pavement and vertical clearances from pavement and ground surfaces.***
4. ***Work shall be performed in a systematic orderly process by route through the Districts. The Contractor shall develop a proposed schedule of all work including site plan development showing beginning and ending dates for statewide coverage on all routes. These schedules shall also be presented to the NMDOT for approval prior to beginning of any pre-construction or construction activity.***

C. Refurbishing Specific Information Panels, and Business Sign Replacement

1. It is the Contractor's responsibility to coordinate field determinations of actual quantities of panel refurbishing and business sign replacement with the NMDOT.

The final determination of specific information panels and business signs to be refurbished or replaced shall be made by NMDOT personnel prior to beginning construction at an interchange. The Contractor shall determine by marketing what type and number of signs shall be required to accommodate business participation and shall provide through construction, refurbishing or modification those specific information panels required and shall replace those business signs determined by the NMDOT to be replaced provided these businesses continue to participate. New business signs added by marketing or new participation shall be provided by the business and erected by the Contractor's personnel for the costs as shown on Section III (B).

2. Site plans for refurbishing, modification or business sign replacement shall be provided as outlined in Section VIII.A.4 and may be shown on the site plans for new construction. It is intended that only one site plan per interchange approach be provided.
3. The Contractor's proposed schedule of work shall include all refurbishing, modification, and business sign replacement work. It is intended that all construction required at an interchange and for initial statewide construction coverage be performed as the Contractor proceeds with work through an interchange as shown on the proposed and final approved work schedule. This does not preclude sporadic construction required as a result of participation by businesses that decide to participate at later dates.

D. Removal of Existing Specific Information Panels

1. As the Contractor proceeds with marketing and determination of sign types required by anticipated business participation certain existing specific information panels may require removal. The Contractor shall remove these signs and all salvageable material shall become the property of the NMDOT. The NMDOT District Personnel shall advise the Contractor where to deliver the material.
2. The Contractor shall remove all foundations and stubs to one foot below normal ground line. Holes shall be back filled with dirt and compacted to leave a finished ground line to match existing. The NMDOT may require reseeding or sprigging of bare surfaces dependent upon size of disturbed area.

E. Maintenance

1. General

The Contractor shall immediately, upon execution of the contract, assume maintenance of the existing LOGO program sign system. The Contractor shall show in the proposal, plans for and capability to perform this maintenance. The Contractor shall maintain all existing signs and supports and all new signs and supports for the life of the contract.

2. Routine Maintenance

- (A) The Contractor shall inspect all sign surfaces annually to determine adequate legibility and retro-reflective performance. These inspections may be subjective nighttime appraisals, however, in case of differences of opinion by Contractor and NMDOT personnel, final determination shall be made by use of a retro reflectivity measuring instrument used as directed by the sheeting manufacturer. Inspections shall be documented.
- (B) Signs and supports shall be inspected annually to determine integrity of the support and hanging system. Bolts shall be re-torqued as required and any noticeable rust spots, sheeting damage, loose rivets, vandalism damage, etc. shall be repaired. Inspections shall be documented.
- (C) **Sight distance as initially required and outlined above in the Detailed Scope of Work; Installation and Maintenance; Section A.3 shall be maintained for the life of the contract. Inspections and efforts to maintain sight distance requirements shall be documented.**
- (D) All LOGO program sign surfaces shall be cleaned at least once every two (2) years. Cleaning shall be performed as recommended by the manufacturer of the retro-reflective sheeting.

1. Emergency Maintenance

Sign damage that poses an immediate danger to the traveling public shall receive immediate attention. When the Contractor becomes aware of the sign damage, action shall be initiated immediately to remove the danger to the public.

The Contractor shall then initiate procurement of materials and make necessary repairs. Sign repairs requiring ordering of materials from suppliers outside the local area shall be accomplished within 30 days from date of awareness. Sign repair requiring materials available from Contractor's stock or locally available shall be performed within 5 days from date of awareness of need.

The intent of this section is to allow reasonable time for procurement of materials; however, the Contractor shall make reasonable efforts to have stockpiled or readily available sources of material for maintenance. The Contractor shall show in the proposal what steps he has taken or shall be taken to provide for this response.

2. The NMDOT District Maintenance personnel shall cooperate with the Contractor by advising of needed sign or support maintenance that they notice. The Contractor shall provide the appropriate NMDOT personnel with names and emergency telephone numbers of the contractor's Contractor and maintenance personnel that shall respond to maintenance requirements.

F. Sign Design and Composition

1. General

- (A) All materials to be used for sign fabrication, support fabrication and foundation materials shall meet the requirements of the current NMDOT standard specifications for road and bridge construction and applicable special provisions or special specifications.
- (B) Materials incorporated in construction of the sign and support system shall be supplied from pre-approved stock, tested for compliance with NMDOT specifications, or certified that they meet NMDOT specifications as required by NMDOT product approval program.

2. Retro-reflective Sheeting

- (A) Specific information panels background, border, and copy shall be encapsulated lens or prismatic sheeting meeting the requirements for high intensity reflective sheeting.
- (B) Specific information panels border and copy may be either direct applied sheeting or demountable meeting the requirements for high intensity reflective sheeting.
- (C) Business sign sheeting shall be encapsulated lens or prismatic sheeting meeting the requirements for high intensity reflectivity sheeting.
- (D) Business sign copy, symbols, and border may be provided by silk screening with appropriate inks. This production process shall meet the requirements of the sheeting manufacturer.

3. Sign Substrate

All signs, including business signs and trailblazer assemblies, shall be fabricated with aluminum meeting the requirements of the NMDOT standard specifications, special provisions, and special specifications.

4. Sign Supports

Mainline and ramp specific information panel supports shall be steel beams fabricated for slip base breakaway design in accordance with the Departments specifications.