

1 RESOLUTION

2 of the

3 METROPOLITAN TRANSPORTATION BOARD

4 of the

5 MID REGION COUNCIL OF GOVERNMENTS OF NEW MEXICO

6 (R-15-14 MTB)

7 **OPEN MEETINGS RESOLUTION**

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16 WHEREAS, Section 10-15-1(B) of the Open Meetings Act (Sections 10-15-1
17 through 10-15-4 NMSA 1978) states that all meetings of a quorum of members of any
18 board, commission, administrative adjudicatory body, or other policy making body of
19 any state agency, any agency or authority of any county, municipality, district, or any
20 political subdivision, held for the purpose of formulating public policy, including the
21 development of personnel policy, rules, regulations or ordinances, discussing public
22 business or for the purpose of taking any action within the authority of or the delegated
23 authority of any board, commission or other policymaking body are declared to be public
24 meetings open to the public at all times, except as otherwise provided in the constitution
25 of New Mexico or the Open Meetings Act. No public meeting, once convened, that is
26 otherwise required to be open pursuant to the Open Meetings Act shall be closed or
27 dissolved into small groups or committees for the purpose of permitting the closing of
28 the meeting;

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32 WHEREAS, Section 10-15-1 (C) allows a public body to provide members of a
33 public body to participate in a meeting of the public body by means of a conference
34 telephone or other similar communicating equipment when it is otherwise difficult or
35 impossible for the member to attend the meeting in person, provided that each member
36 participating, by conference telephone can be identified when speaking, all participants
37 are able to hear each other at the same time and members of the public attending the
38 meeting are able to hear any member of the public body who speaks during the
39 meeting;

40 WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the Board of
41 Directors of the Mid Region Council of Governments (MRCOG) of New Mexico to
42 determine annually what constitutes reasonable notice of its public meetings; and

43 WHEREAS, Section 10-15-4 of the Open Meetings Act provides that all
44 provisions of the Open Meetings Act shall be enforced by the attorney general or by the
45 district attorney in the county of jurisdiction. However, nothing in that act shall prevent
46 an individual from independently applying for enforcement through the district courts,
47 provided that the individual first provides written notice of the claimed violation to the
48 public body and that the public body has denied or not acted on the claim within fifteen
49 days of receiving it. A public meeting held to address a claimed violation of the Open
50 Meetings Act shall include a summary of comments made at the meeting at which the
51 claimed violation occurred; and

52 WHEREAS, Section 10-15-4(c) of the Open Meetings Act provides that the
53 district courts of the state shall have jurisdiction, upon the application of any person to

54 enforce the purpose of the Open Meetings Act, by injunction, mandamus or other
55 appropriate order. The court shall award costs and reasonable attorney fees to any
56 person who is successful in bringing a court action to enforce the provisions of the Open
57 Meetings Act. If the prevailing party in a legal action brought under this section is a
58 public body defendant, it shall be awarded court costs. A public body defendant that
59 prevails in court action brought under this section shall be awarded its reasonable
60 attorney fees from the plaintiff if the plaintiff brought the action without sufficient
61 information and belief that good grounds supported it.

62 NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Mid
63 Region Council of Governments of New Mexico that:

- 64 1. Regular meetings of the Board of Directors, its Executive Board, the
65 Metropolitan Transportation Board, Middle Rio Grande Water Resources
66 Board, Transportation Coordinating Committee, Public Involvement
67 Committee, and/or the Regional Planning Organization Transportation
68 Advisory Committee shall ordinarily be held as established by the
69 individual boards at their last meeting of the calendar year. For the
70 purposes of regular meetings, notice requirements are met if notice of the
71 date, time, place, and information on how the public may obtain an
72 agenda, is placed as a legal notice in newspapers of general circulation in
73 the state at least ten (10) days in advance of the meeting date. Written
74 notice shall also be mailed to those broadcast stations licensed by the
75 Federal Communications Commission and newspapers of general
76 circulation which have made a written request of the MRCOG for notice of

77 public meetings. A proposed agenda will be posted in the offices of the
78 MRCOG one week before the meeting, located at 809 Copper Ave. NW,
79 Albuquerque, New Mexico; and will be available on the MRCOG website
80 at www.mrcog-nm.gov one week before the meeting; and

81 2. The final agenda will be posted in the offices of the MRCOG not less than
82 seventy-two (72) hours prior to the meeting; and will be available on the
83 MRCOG website at www.mrcog-nm.gov not less than seventy-two (72)
84 hours before the meeting; and

85 3. Up to three (3) members of the Board of Directors, its Executive Board,
86 the Metropolitan Transportation Board, Middle Rio Grande Water
87 Resources Board, Transportation Coordinating Committee, Public
88 Involvement Committee, and/or the Regional Planning Organization
89 Transportation Advisory Committee may participate by conference
90 telephone in any meetings that are held in the MRCOG Conference
91 Room; and

92 4. Special meetings of the Board of Directors, its Executive Board, the
93 Metropolitan Transportation Board, Middle Rio Grande Water Resources
94 Board, Transportation Coordinating Committee, Public Involvement
95 Committee, and/or the Regional Planning Organization Transportation
96 Advisory Committee may be called by the Chairman or a majority of the
97 members upon three (3) days notice. For the purposes of special
98 meetings, notice requirements shall be met by posting notices in the
99 offices of the MRCOG. Facsimile notice of such meetings shall be

100 provided to those broadcast stations licensed by the Federal
101 Communications Commission and newspapers of general circulation that
102 have made a written request of the MRCOG for notice of public meetings;
103 and

104 5. Emergency meetings of the Board of Directors, its Executive Board, the
105 Metropolitan Transportation Board, Middle Rio Grande Water Resources
106 Board, Transportation Coordinating Committee, Public Involvement
107 Committee, and/or the Regional Planning Organization Transportation
108 Advisory Committee are meetings called under circumstances which
109 demand immediate action by those boards. Although the boards would
110 avoid emergency meetings whenever possible, such circumstances may
111 occasionally arise. Emergency meetings of those boards may be called
112 by the Chairman or a majority of the members upon twenty-four (24) hours
113 notice. For the purposes of emergency meetings, notice requirements
114 shall be met by posting notices in the offices of the MRCOG. Facsimile
115 notice of such meetings shall be provided to those broadcast stations
116 licensed by the Federal Communications Commission and newspapers of
117 general circulation that have made a written request of the MRCOG for
118 notice of public meetings; and

119 6. Pursuant to Section 10-15-1(H)(I) NMSA 1978, the Board of Directors, its
120 Executive Board, the Metropolitan Transportation Board, Middle Rio
121 Grande Water Resources Board, Transportation Coordinating Committee,
122 Public Involvement Committee, and/or the Regional Planning Organization

123 Transportation Advisory Committee may close a meeting to the public if
124 the subject matter of such discussion or action is included in Subsection I
125 of the Open Meetings Act, Section 10-15-1 NMSA 1978. If any such
126 board meeting is closed pursuant to Section 10-15-1(H)(I) NMSA 1978,
127 such closure:

128 (a) if made in an open meeting, shall be approved by a majority vote of
129 a quorum of the members of such board and authority for the
130 closure and subject to be discussed shall be stated in the motion
131 calling for the vote on a closed meeting. The vote on a closed
132 meeting shall be taken in an open meeting and the vote of each
133 individual member is to be recorded in the minutes. Only those
134 subjects announced or voted upon prior to closure by such board
135 may be discussed in a closed meeting; and

136 (b) if called for when such boards are not in an open meeting, the
137 closed meeting shall not be held until public notice, appropriate
138 under the circumstances, stating the specific provision of law
139 authorizing the closed meeting and subject matter is given to the
140 members and to the general public; and

141 6. Notwithstanding any provision, the Chairman may establish such
142 additional notice as may be deemed advisable.

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146 PASSED, ADOPTED, AND APPROVED this 16th day of October 2015 by the
147 Metropolitan Transportation Board of the Mid Region Council of Governments of New
148 Mexico.

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151 *18 MAR 2016*  _____
152 Debbie O'Malley, Chair
153 Metropolitan Transportation Board
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155 ATTEST:

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158 Dewey V. Cave, Executive Director
159 Mid-Region Council of Governments
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