

**Confidentiality Agreement
Between
The New Mexico Taxation and Revenue Department And**

THIS Confidentiality Agreement ("Agreement") is made by and between the State of New Mexico Taxation and Revenue Department (the "Department"), and ("Inspecting Party"), collectively referred to as the "Parties".

Under NMSA 1978, § 7-1-8.9(A), officials or employees of a municipality or county are permitted to inspect certain records of the Department and the Department may permit the inspection upon the municipality or county agreeing and adhering to the terms of this Confidentiality Agreement.

NOW THEREFORE it is mutually agreed between the Parties:

1. This Agreement is the written agreement required to be entered into by the Parties prior to the disclosure of any information or records (the "Records") by the Department.
2. The Inspecting Party shall designate one or more of its officers or employees or, pursuant to NMSA 1978, § 7-1-8(B)(1), an agent for the receipt and control of the Records (an "Authorized Inspector"). Each Authorized Inspector must be an individual. The Inspecting Party remains at all times responsible for all actions of its designated Authorized Inspectors. The Department reserves the right, for good cause, to not provide Records to any Authorized Inspector.
3. Disclosure of Records to any Authorized Inspector shall be made pursuant to a written request by the Inspecting Party, stating the name and position of Authorized Inspector. A sample written request is attached as Attachment A and is available at:

<http://tax.newmexico.gov/request-for-tax-reports.aspx>

4. If an Authorized Inspector ceases or will cease to be an official, employee or agent of the Inspecting Party, or for any other reason ceases or will cease to be an Authorized Inspector, the Inspecting Party shall timely notify the Department in writing, and shall clearly state the date on which the Authorized Inspector will cease or has ceased to be an official, employee or agent of the Inspecting Party. In the case of an Authorized Inspector who has already ceased to be an official, employee or agent of the Inspecting Party, the Inspecting Party shall notify the Department immediately of such cessation by email, in addition to the written notification. Failure to so notify the Department is a breach of this Agreement. The Department specifically reserves the right to deny providing any Records to any person if the Department believes such person is not, or is no longer, an Authorized Inspector.
5. The Inspecting Party, and any of its Authorized Inspectors, shall inspect any Records provided by the Department only for the purposes specified in Section 7-1-8.9, and in accordance with Section 7-1-8(B) and this Agreement. If the Department determines that any Authorized Inspector has failed to comply with the requirements of this Paragraph, the Department, in addition to any other remedies available to it, may treat such failure as a breach of this Agreement.
6. Prior to providing any Records, each Authorized Inspector shall complete appropriate training as requested by the Department, pursuant to Section 7-1-8.9(B). At a minimum, each

Authorized Inspector shall complete training on protecting confidential information specified by the Department on an annual basis.

7. Records may be provided pursuant to this Agreement, at the Department's option, either by delivering Records to the Inspecting Party or by delivering the Records to a location designated by the Department for inspection. The Department reserves the right to decide the method and format in which Records are provided. The Inspecting Party, and each Authorized Inspector, shall at all times ensure that any Records are protected from being revealed to any unauthorized party.
8. The Inspecting Party and each Authorized Inspector explicitly agree that the Records provided by the Department under this Agreement are provided for a limited purpose stated in Section 7-1-8.9, and only for a sufficient time to complete such purpose. Pursuant to § 7-1-8(B)(4), the Inspecting Party, and each Authorized Inspector, shall contact the Department immediately upon completion of the lawful purpose for which Records were obtained, and shall either return or destroy, at the Department's option, all Records obtained.
9. The Inspecting Party, and each Authorized Inspector, further agree not to make copies, in any form or format, of any Records provided under this Agreement, without the express written permission of the Department and, upon completion of the lawful purpose for which Records were obtained, to either return or destroy all copies in the same manner as if they were the original Records. Copies made by the Inspecting Party or any Authorized Inspector are subject to the same confidentiality protections as the original Records. Within fifteen (15) days of the completion of the lawful purpose for which Records were obtained, every Authorized Inspector shall sign and deliver to the Department a certificate ("Certificate") attesting that the Records were used only for the purpose they were provided and that all copies have been returned or destroyed. A sample Certificate is attached hereto as Attachment B. Failure to timely sign and deliver the Certificate shall constitute a breach of this Agreement.
10. The Inspecting Party warrants that it has established procedures to maintain confidentiality, as required by Section 7-1-8(B), and further warrants and understands:
 - a. All Reports made available shall be used only for carrying out the provisions of this Agreement. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to any other person is prohibited.
 - b. All Reports will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.
 - c. No work involving Reports furnished under this Agreement will be subcontracted without prior written approval of the Department.
 - d. The Inspecting Party will maintain a list of all Authorized Inspectors. Such list will be provided to the Department upon request.
 - e. The Department will have the right to void the Agreement if the Inspecting Party or the Authorized Inspectors fail to provide the safeguards described above.

11. The Department reserves the right to request a change to any of the above procedures at any time, such change to be implemented by the Inspecting Party as soon as possible.
12. The Inspecting Party designates the following person as responsible for implementing and maintaining the confidentiality procedures:
 - a.
13. The Inspecting Party, and all Authorized Inspectors, explicitly agree to be bound at all times by the provisions of NMSA 1978, § 7-1-8 *et seq.* and 7-1-76, relating to confidentiality of Records and penalties for breach. The Parties agree that making Records available for inspection under this Agreement does not waive confidentiality of the Records.
14. The Parties agree that confidentiality requirements pertaining to any Records shall survive the term of this Agreement.
15. This Agreement creates no obligation on the Department to create new Records, or to modify existing Records in any way. This Agreement creates no obligation on the Department to pay for the costs of providing Records for inspection or of administering this Agreement. Pursuant to § 7-1-8(C)(4), the Inspecting Party explicitly agrees to reimburse the Department for any costs incurred by the Department in providing Records for inspection and in administering this Agreement. The Inspecting Party explicitly agrees to reimburse the Department for any damages resulting from unauthorized disclosure, whether by negligence or otherwise, of Records by the Inspecting Party or any of its Authorized Inspectors, employees, officers, or agents, including reasonable legal fees associated with obtaining any relief related to, and/or monetary damages resulting from, such unauthorized disclosure.
16. The Inspecting Party agrees that the Department will suffer irreparable harm if the Inspecting Party, or any of its Authorized Inspectors, employees, officers or agents, fail to comply with any of its obligations set forth herein, and further agrees that monetary damages will be inadequate to compensate the Department for any such breach. Accordingly, the Inspecting Party agrees that the Department, upon breach by Inspecting Party, or any of its Authorized Inspectors, employees, officers or agents, and in addition to any other remedies available at law or in equity, shall be entitled to refuse to provide any Records to the Inspecting Party for a period of one (1) year from date of breach, notwithstanding the Inspecting Party's statutory rights to inspect the Records.
17. The Inspecting Party acknowledges that the Department may notify any taxpayer, or any other person, whose information is contained in the Records disclosed to the Inspecting Party, of the fact of such disclosure. **The Inspecting Party acknowledges that nothing in this Agreement, or in any law, permits it to contact any taxpayer, or any other person not explicitly authorized by statute or this Agreement, *including* Inspecting Parties or Authorized Inspectors for other counties or municipalities, regarding any matter related to any Records provided under this Agreement. If the Inspecting Party attempts to contact any taxpayer, or any other person not explicitly authorized by statute or this Agreement, regarding any matter related to any Records provided under this Agreement, this will constitute a breach of the Agreement.**

18. In the event of a breach of this Agreement by the Inspecting Party of any of its Authorized Inspectors, employees, officers or agents, the Department may, at its sole discretion, take the following acts:
- a. Immediately terminate this Agreement for a period of up to one year and upon the Department being satisfied that no future breaches will likely occur;
 - b. Demand the immediate return of all outstanding Records;
 - c. Seek an injunction barring the further disclosure of any Records; and
 - d. Seek any other remedies available at law or in equity.
19. Applicable Law. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, the Inspecting Party acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any lawsuits arising under or out of any term of this Agreement.
20. This Agreement confers no rights upon any third party, unless that party is an Authorized Inspector, employee, officer or agent of the Inspecting Party and the Inspecting Party designates such party as an Authorized Inspector.
21. If any provision of this Agreement is held void or invalid, the remaining provisions shall nevertheless be valid, effective and binding.
22. This Agreement may only be modified in writing signed by both Parties.
23. This Agreement shall become effective as of the date of the last signature required and shall remain effective until either party gives written notice that it intends to terminate the Agreement or one year after the signing of the Agreement, whichever comes first.
24. Notices

For the Department

Local Government Liaison
New Mexico Taxation and Revenue Department
(505) 827-2588
1100 S. St. Francis Dr., Room 3002
Santa Fe, NM 87505

Tax.localgov@state.nm.us

For the Inspecting Party

Any change to the Notice, individual or the address, shall be effective only in writing or email.

Municipality/County

Signature_____

Name_____

Title_____

Date_____

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

Signature_____

Name_____

Title_____

Date_____

ATTACHMENT A

STATE OF NEW MEXICO
TAXATION AND REVENUE DEPARTMENT
REQUEST FOR RECORDS PURSUANT TO
NMSA, § 1978 7-1-8.9

New Mexico Taxation and Revenue Department
Attention: Local Government Liaison
P. O. Box 630
Santa Fe, New Mexico 87504-0630
tax.localgov@state.nm.us

To Whom It May Concern:

In accordance with NMSA 1978, § 7-1-8.9(A), the municipality or county of **Municipality or County** hereby requests that records of the New Mexico Taxation and Revenue Department for the period of **Date Range** be provided for inspection pursuant to:

- ☐ 7-1-8.9(A)(1)(a) for municipality or 7-1-8.9(B)(1)(a) for county – 455 - GRT Filers by Location report
- ☐ 7-1-8.9(A)(1)(b) for municipality or 7-1-8.9(B)(1)(b) for county – Monthly Local Government GRT Payer Range report
- ☐ 7-1-8.9(A)(1)(c) for municipality or 7-1-8.9(B)(1)(c) for county – municipality or county must furnish a list of businesses
- ☐ 7-1-8.9(A)(3) records pertaining to a distribution – Distribution Decrease or Increase report

Municipality or County Location Code(s):

Location Code 1 **Location Code 2** **Location Code 3** **Location Code 4**

Signature of Authorized Inspector

Title

Date

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STATE OF NEW MEXICO
TAXATION AND REVENUE DEPARTMENT
REQUEST FOR RECORDS PURSUANT TO
NMSA 1978, § 7-1-8.9(A)

LIST OF AUTHORIZED INSPECTORS

I, name, title, of municipality or county, ("Inspecting Party") hereby certify that the following persons are Authorized Inspectors, having completed the required Confidentiality Training and are bound by the terms of Confidentiality Agreement.

(1):
Name: _____ Title: _____

Email Address: _____

Telephone Number: _____

(2) :
Name: _____ Title: _____

Email Address: _____

Telephone Number: _____

(3):
Name: _____ Title: _____

Email Address: _____

Telephone Number: _____

Signature of Inspecting Party

Title

Date

Please return this List of Authorized Inspectors form to:

New Mexico Taxation and Revenue Department
OOS Attention: Local Government Liaison
P. O. Box 630
Albuquerque, New Mexico 87504-0630
tax.localgov@state.nm.us

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ATTACHMENT B
CERTIFICATE OF COMPLETION OF INSPECTION

I, _____, state as follows:

1. I hereby certify that I have read, understood and complied with all provisions of that certain Confidentiality Agreement, dated _____, between the New Mexico Taxation and Revenue Department and _____ (the "Agreement").
2. I hereby certify that, pursuant to the Agreement, I inspected Records for the time period of _____ to _____.
3. I hereby certify that at all times while inspecting, possessing or controlling any Records I have been, an Authorized Inspector under the Agreement.
4. I hereby certify that I have either returned or destroyed any Records provided to me under the Agreement.
5. I hereby certify that I have made no copies of any Records or any other documents except as permitted under the Agreement, that I have either returned or destroyed all such copies, and that at all times I protected the confidentiality of such copies as though they were original Records.
6. I hereby certify that I am aware that any misconduct on my part, including any misstatement in this Certificate, may subject me to penalty under law including but not limited to the penalties delineated in NMSA 1978, § 7-1-76.

Signature _____

Name _____

Title _____

Date _____