



**San Miguel Authority for Regional Transportation
Board of Directors Meeting Agenda
Thursday January 12th, 2023
3 p.m.**

This meeting will be held virtually via Zoom:

<https://us02web.zoom.us/j/81222084344?pwd=OTBHSVkrRzVFU0VQdlQ2b28ybmVFUT09>

Meeting ID: 812 2208 4344

Passcode: 455733

One tap mobile

+17193594580,,81222084344#,,,,*455733# US

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Item No.	Presenter	Item Type	Topic	Packet Page	Estimated Time
1.	-	-	Public Comment	-	5
2.	Board	Meeting Resolution	Resolution 2023-1, Part 1a, regarding the Review and Approval of the January 12 th , 2023 Agenda and Consent Items Resolution 2023-1, Part 1b, regarding the Review and Approval of December 8th, 2022 Meeting Minutes	6	5
3.	Averill	Action	Resolution 2023-2: Extension of lease with Proset Construction	7	5
4.	Averill	Action	Resolution 2023-3: Entering into a Cooperative Purchase Agreement with the State of Washington Department of Transportation for the purchase of transit vehicles	21	10

5.	Distefano	Report	January 2023 Operations Update	29	10
6.	Averill	Report	Executive Directors Report	50	10
7.	All	Report	Round Table Updates and Reports	-	5

GLOSSARY

5304	FTA program funding for multimodal transportation planning (jointly administered with FHWA) in metropolitan areas and States
5311	FTA program funding for rural and small Urban Areas (Non-Urbanized Areas)
5339	FTA program funding for buses and bus facilities
AAC	SMART Administrative Advisory Committee
ADA	Americans with Disabilities Act of 1990
AIS	Agenda Item Summary
CAAA	Clean Air Act Amendments of 1990 (federal)
CAC	SMART Community Advisory Committee
CDOT	Colorado Department of Transportation
CMAQ	Congestion Mitigation and Air Quality (a FHWA funding program)
DBE	Disadvantaged Business Enterprise
DOT	(United States) Department of Transportation
DTR	CDOT Division of Transit & Rail
FAST ACT	Fixing America's Surface Transportation Act (federal legislation, December 2015)
FASTER	Funding Advancements for Surface Transportation and Economic Recovery (Colorado's S.B. 09-108)
FHWA	Federal Highway Administration
FTA	Federal Transit Administration
FY	Fiscal Year (October – September for federal funds; July to June for state funds; January to December for local funds)
FFY	Federal Fiscal Year
HOV	High Occupancy Vehicle
HUTF	Highway Users Tax Fund (the State's primary funding source for highways)
IGA	Inter-Governmental Agreement
ITS	Intelligent Transportation Systems
LRP or LRTP	Long Range Plan or Long Range Transportation Plan
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NAA	Non-Attainment Area (for certain air pollutants)
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
PPP (also P3)	Public Private Partnership
R3 or R5	Region 3 or Region 5 of the Colorado Department of Transportation
RPP	Regional Priority Program (a funding program of the Colorado Transportation Commission)
RSH	Revenue Service Hour
RSM	Revenue Service Mile
RTP	Regional Transportation Plan
SOV	Single Occupant Vehicle
STAC	State Transportation Advisory Committee
STIP	Statewide Transportation Improvement Program
TA (previously TAP)	Transportation Alternatives program (a FHWA funding program)
TC	Transportation Commission of Colorado
TIP	Transportation Improvement Program
Title VI	U.S. Civil Rights Act of 1964, prohibiting discrimination in connection with programs and activities receiving federal financial assistance
TPR	Transportation Planning Region (state-designated)
TRAC	Transit & Rail Advisory Committee (for CDOT)
VMT	Vehicle Miles Traveled



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7.	All	Report	Round Table Updates and Reports

**San Miguel Authority for Regional Transportation
Board of Directors Meeting December 8th, 2022 Regular Meeting
Virtual meeting minutes**

Member Directors Present: San Miguel County – Kris Holstrom and Lance Waring. Town of Telluride – Adrienne Christy, Meehan Fee, Delanie Young. Town of Mountain Village – Patrick Berry, Harvey Mogenson.

Staff Present: David Averill and Kari Distefano (SMART). Kelly Kronenberg (Telluride Express).

The meeting was called to order at 9:00 a.m.

Item 1: Public Comment

No public comment was offered.

Item 2: Resolution 2022-19 Part 1a, regarding the Review and Approval of the December 8th, 2022 Agenda and Consent Items and Part 1b, regarding the Review and Approval of November 10th, 2022 Meeting Minutes

Lance Waring moved to adopt Resolution 2022 19, parts 1a and 1b with an amendment indicating for the record that Joe Dillsworth was present at the December 8th, 2022 meeting.

Patrick Berry seconded the motion.

A unanimous vote approved the motion.

Item 3: Resolution 2022-20 Approving the Fiscal Year 2023 Mill Levy Certifications

Averill gave background on the item explaining the necessity of certifying the mill levy's for the fiscal year. There were no concerns or questions expressed by the Board.

Patrick Berry moved to adopt Resolution 2022 20
Joe Dillsworth seconded the motion.

A unanimous vote approved the motion.

Item 4: Resolution 2022 21 regarding the Approval of the Fiscal Year 2023 Budget, Capital Plan and Spending Appropriations

Averill recapped the previous discussions regarding the development of the 2023 budget and capital plan. He then presented the recommended budget and capital plan for the Boards consideration. There were no questions or concerns expressed by the Board.

Patrick Berry moved to adopt Resolution 2022 21
Lance Waring seconded the motion.

A unanimous vote approved the motion.

Item 5: Resolution 2022-22 setting 2023 Meeting Board Meeting Dates

Averill presented a list of recommended meeting dates for 2023. In keeping with tradition, this list sets meeting dates as the 2nd Thursday of the month at 3 p.m. No questions or concerns were expressed by the Board.

Lance Waring moved to adopt Resolution 2022 22

Harvey Mogensen seconded the motion.

A unanimous vote approved the motion.

Item 6: Resolution 2022-23 election of Board Officers for 2023/2024

Averill presented background on how the Board Officer positions have rotated amongst the member jurisdictions over the years. The Board opted to split the previously combined Secretary/Treasurer position so that each jurisdiction would have an officer position moving forward. As a result of the background and following discussion, Board member Waring nominated Dillsworth as Chair, Berry as Vice Chair, Fee as Board Treasurer and himself as Board Secretary. No objections were noted and the nominations went to vote.

Lance Waring moved to adopt Resolution 2022 23

Adrienne Christy seconded the motion.

A unanimous vote approved the motion.

Item 7: November 2022 Operations Update

Distefano presented the October 2022 Operations Update.

Item 8: Round table updates and reports

A brief update about the Chondola was offered by Berry.

The meeting was adjourned at 9:40 a.m.

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR REGIONAL
TRANSPORTATION EVIDENCING ACTIONS TAKEN AT ITS JANUARY 12TH, 2023 REGULAR MEETING**

RESOLUTION NO. 2023-1

RECITALS:

WHEREAS, the San Miguel Authority for Regional Transportation (“SMART”) was approved by the registered electors of the Town of Telluride, Town of Mountain Village, and that portion of the SMART combination that are within that part of the SMART boundaries located within unincorporated San Miguel County, pursuant to the Colorado Regional Transportation Authority Law, C.R.S. Title 43, Article 4, Part 6, at the general election held on November 8, 2016; and

WHEREAS, SMART is governed by the Colorado Regional Transportation Authority Law and SMART Intergovernmental Agreement (“SMART IGA”) conditionally approved by each of the governing bodies of the Town of Telluride, Town of Mountain Village and San Miguel County pending approval by the registered electors at the November 8, 2016 general election; and

WHEREAS, the Board held a regular meeting on January 12th, 2023; and

WHEREAS, Section 3.09 of the SMART IGA requires all actions of the Board to be taken by written resolution; and

WHEREAS, the Board desires to take action on certain items set forth below in accordance with the SMART IGA.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR
REGIONAL TRANSPORTATION AS FOLLOWS:**

1. At its January 12th, 2023 regular meeting the Board took action on the following:
 - a. Approval of the January 12th, 2023 meeting agenda (Exhibit A)
 - b. Approval of the Board meeting minutes for the December 8th, 2022 regular meeting (Exhibit B)

**ADOPTED AND APPROVED BY THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR
REGIONAL TRANSPORTATION AT A REGULAR PUBLIC MEETING THIS JANUARY 12TH, 2023.**

Joe Dillsworth, Board Chair

ATTEST:

David Averill, Executive Director

AGENDA ITEM SUMMARY (AIS)

San Miguel Authority for Regional Transportation



Meeting Date	Agenda Item	Submitted By
January 12th, 2023	3	D. Averill
Objective/Requested Action		
Action is requested of the Board to extend an existing lease with Proset Construction for 13 Society Dr.		Report Work Session Discussion X Action
Key Points		
Proset Construction has requested an extension to their existing lease (Exhibit A) to June 30 th , 2024. The proposed Amendment extending the lease is included as Exhibit B. CDOT has approved the extension of this lease with the Tenant.		
Committee Discussion		
NA		
Supporting Information		
NA		
Fiscal Impact		
These actions will have a net positive fiscal impact for SMART.		
Advantages		
Revenue generated from rent on this property helps to offset ongoing maintenance and capital repairs of the facility.		
Disadvantages		
None noted.		
Analysis/Recommendation(s)		
Staff recommends the extension of the lease for 135 Society Dr. with Proset Construction.		
Attachments		
Exhibit A: Original Lease with Proset Construction Exhibit B: Amendment to extend original lease with Proset Construction		

THIS LEASE HAS IMPORTANT LEGAL CONSEQUENCES. THE PARTIES SHOULD CONSULT LEGAL COUNSEL BEFORE SIGNING.

COMMERCIAL LEASE

(Gross)

This Commercial Lease (the "Lease") is made on July 1, 2022 (date) and is entered into by and between Landlord (as defined below) and Tenant (as defined below). In consideration of the payment of the Rent (as defined below); all costs, charges, and expenses which Tenant assumes, agrees, or is obligated to pay to Landlord pursuant to the Lease (the "Additional Rent"); and the performance of the promises by Tenant set forth below, Landlord hereby leases to Tenant, and Tenant hereby accepts, the Premises (as defined below), subject to the terms and provisions set forth in the Lease.

PARTIES, PREMISES, AND DEFINED TERMS

1. **Landlord:** San Miguel Authority for Regional Transportation, dba SMART
2. **Tenant:** Proset Construction, Inc.(the "Tenant").
3. **Premises:** Landlord is the owner of certain real estate legally described as Lot J1, Lawson Hill PUD in San Miguel County, Colorado (the "Real Estate"). The Real Estate is improved with a two-story commercial building (the "Improvements") (the Real Estate and the Improvements are collectively referred to as the "Property"). Landlord hereby leases and demises to Tenant the following described portion of the Property: Address 135 Society Drive, entire upper floor (the "Premises") area to be leased as identified in Exhibit A of this agreement.
4. **Term:** Landlord Leases the Premises to Tenant from twelve o'clock noon on the 1st day of July 2022 and until 11:59 p.m. on the 31st day of June 2023. Subject to Tenant's performance of all obligations under the Lease, including, without limitation, payment of Rent and Additional Rent, Tenant shall enjoy quiet possession of the Premises.
5. **Rent:** Rental for the first year of the Term is nineteen thousand and two hundred Dollars (\$19,200.00) payable in equal installments of sixteen hundred Dollars (\$1600) in advance to Landlord on the first day of each calendar month for that month's rental before twelve o'clock noon, without notice (the "Rent"). Unless otherwise provided in the Lease, all payments due under the Lease, including Additional Rent, shall be mailed, or delivered to Landlord at the following address: SMART, PO Box 3140, Telluride CO, 81435. If the Term does not begin on the first day of the month, the Rent shall be prorated accordingly. Rent for subsequent years of the Term shall not be increased.
7. **Security Deposit:** Prior to occupying the Premises, Tenant shall keep on deposit with Landlord a security, cleaning, and damage deposit in the amount of sixteen hundred Dollars (\$1600) as security for the return of the Premises at the expiration of the Term in as good condition as when Tenant entered the Premises, normal wear and tear excepted, as well as the faithful, timely, and complete performance of all other terms, conditions, and covenants of the Lease (the "Security Deposit").
8. **Use:** The Premises shall be used as commercial office space, provided this use conforms with applicable zoning regulations. Tenant shall not, without the prior written consent of Landlord, permit the Premises to be used for any other purpose.
9. **Utilities/HOA Fees:** Tenant shall pay 50% of the actual expense for HOA fees and 85% of utilities (gas and electric) as may be reasonably incurred by Landlord, upon billing by same Landlord.
10. **Payment of Additional Rent:** Additional Rent shall be paid by Tenant to Landlord in monthly installments concurrent with the Rent.
11. **Late Payments:** If any Rent, Additional Rent, or other payment is received later than 15 days after the date when due, the parties agree that Additional Rent in the amount of ten percent (10%) of the outstanding sums shall also be due and payable. The addition of such amount and the collection thereof shall not operate to waive any other rights of Landlord for nonpayment of Rent, or for any other reason.
12. **Repairs and Maintenance of the Premises:** The Landlord shall maintain the foundation, exterior walls, and roof of the Improvements in good repair. The Landlord agrees to keep all the other improvements (including plate glass and other





windows, window frames, and doors) upon the Premises repaired and maintained in good order as described in the Lease. The Landlord shall properly irrigate and care for all trees, shrubbery, and lawn and the Landlord shall keep all driveways, sidewalks, and parking areas on the Premises free and clear of ice and snow.

PREMISES

13. Common Areas: The common areas are all areas outside of the Premises upon the Property designated by Landlord for common use of Tenant, its employees, licensees, invitees, contractors, and Landlord (the "Common Areas"). Landlord grants to Tenant, its employees, licensees, invitees and contractors a non-exclusive license over such Common Areas of the Property necessary to the use and occupancy of the Premises and Parking License (the "Common Area License"). Said License shall be effective for the Term of the Lease. Tenant shall not use Common Areas for any type of storage, or parking of trucks, trailers, or other vehicles without the advance written consent of Landlord. All parking and Common Areas of Property shall at all times be subject to the management of Landlord, and are not part of the Premises. All use of the Common Areas shall be at the sole risk of Tenant, and Landlord is not liable for any damages, or injuries occasioned by such use. Landlord shall have the right, power, and authority to compile, promulgate, change, and modify all rules and regulations that it may, in its sole discretion, deem necessary for use of the Common Areas. Tenant agrees to abide by and conform with all rules and regulations pertaining to such Common Areas. Landlord shall have the right to construct, maintain, and operate lighting facilities; to police and from time to time change the area, location, and arrangement of the Common Areas and facilities; to restrict employee parking to certain areas; to temporarily close all, or any portion of the Common Areas; to discourage non-customer parking; and to do and perform any and all such other acts in and to said Common Areas and facilities as Landlord shall determine in its sole and absolute discretion.

15. Condition of Premises and Representations: Tenant is familiar with the physical condition of the Premises and the Property. Except as may otherwise be provided in the Lease, Landlord makes no representations, or warranties as to the physical condition of the Premises, or the Property, or their suitability for Tenant's intended use. In the event that Landlord agrees to provide any renovations, build-out, or any other labor and materials for the improvement of the Premises, or any allowance for improvements to be effected by Tenant, such work, or allowance shall be specified and agreed to between the parties in a separate document appended to this Lease and which shall constitute a part of this Lease ("Work Letter"). Other than the work, if any, to be performed pursuant to Tenant's Work Letter, the Premises are rented "as is," in current condition, and all warranties are hereby expressly disclaimed. Landlord makes no representations, or warranties as to the suitability of the Premises for Tenant's intended use. Landlord further makes no representations, or warranties as to whether Tenant's intended use will necessitate changes, or alterations to the Premises in order to comport with local, state, or federal laws and regulations. Such laws and regulations include, but are not limited to: health code regulations, access regulations (including, but not limited to, the Americans with Disabilities Act), and zoning regulations. Tenant understands and agrees that in the event actions, alterations, or improvements are required in order to bring the Premises into compliance with any local, state, or federal laws and regulations because of Tenant's intended use, Tenant shall be solely responsible for any and all associated costs and expenses relative thereto. Tenant further indemnifies and agrees to hold Landlord harmless from any and all claims and liabilities that may arise by virtue of Tenant's use of the Premises in violation of any local, state, or federal laws and regulations.

16. Check-In Inspection: Landlord and Tenant may conduct an inspection of the Premises at the time of possession. A check-in inspection sheet may be completed at that time and the information contained therein shall be sufficient and satisfactory proof of the condition of the Premises at the time of possession, should a subsequent dispute arise at a later date as to the condition of the Premises at the time of move-in.

17. Use of Premises: Tenant, in consideration of the leasing of the Premises, agrees as follows:

a. Use of Premises: To use and occupy the Premises solely as and for the use specified in Paragraph 8 of the Lease. Landlord's consent to the aforementioned use is not an assurance, or warranty that the Premises' attributes are sufficient for Tenant's use. Tenant represents and warrants that it has conducted sufficient due diligence to assure itself that the Premises are suitable for its use, and that such use is permitted by applicable law. Landlord expressly reserves its right to lease space within the Property as it sees fit, unless explicitly prohibited by other provisions in the Lease. Landlord's demise of the Premises to Tenant does not preclude Landlord from leasing other parts of the Property to other tenants who may be viewed objectively, or subjectively as competing with Tenant.

c. Vacancy: It will be deemed a Default of the Lease if the Premises are left vacant and unoccupied for over thirty (30) days. In addition to other remedies contained in the Lease, the Landlord may, without being obligated to do so, and without terminating the Lease, retake possession of the Premises and relet, or attempt to relet them for such rent and upon

such conditions as the Landlord deems best, making such changes and repairs as may be required, giving credit for the amount of rent so received, less all expenses of such changes and repairs. Tenant shall be liable for the balance of the Rent and Additional Rent herein reserved until the expiration of the Term.

d. **Legal Compliance:** Tenant and its licensees and invitees shall comply with and abide by all federal, state, county, and municipal laws and ordinances in connection with the occupancy and use of the Premises. Tenant and its licensees and invitees may not possess, or consume alcoholic beverages on the Premises unless they are of legal age. No alcoholic beverages shall be sold upon the Premises unless proper licenses have been obtained. No illegal drugs or controlled substances (unless specifically prescribed by a physician for a specific person occupying or present upon the Premises) shall be permitted upon the Premises. Tenant hereby covenants and agrees to use its reasonable efforts to prevent and preclude its employees, guests, invitees, etc. from the aforementioned illegal conduct. Tenant and its licensees and invitees shall not use the Premises in any way that may result in an increase of the rate or cost to the Landlord to insure the Property. No hazardous or dangerous activities are permitted upon the Premises.

e. **Additional Prohibitions:** Neither Tenant nor its subtenants, licensees, volunteers, employees, guests, or invitees shall act in any manner that would interfere with, or be a nuisance to, other subtenants, occupants, or invitees of the Premises, or adjacent property owners, or adjacent tenants, or that would interfere with those other parties' quiet enjoyment of their premises. Said prohibition includes, but is not limited to, loud noises, loud music, noxious or unpleasant odors, and disruptive behavior or actions. Tenant shall not permit any portion of the Premises to be used in a manner that may endanger the person or property of Landlord, co-tenants, or any person living on or near the Premises. Tenant shall keep all portions of the Premises in a clean, safe, sanitary, and habitable condition.

f. **Pets and Animals:** Pets or animals shall not be permitted upon the Premises.

g. **Storage/Trash:** Tenant shall store all personal property entirely within the Premises. Tenant shall store all trash and refuse in adequate containers within the Premises, which Tenant shall maintain in a neat and clean condition, or within designated Common Areas so as not to be visible to members of the public in, or about the Property, and so as not to create any health or fire hazard.

h. **Hazardous Material Prohibited:** Tenant shall not cause or permit any hazardous material to be brought upon, kept or used in, or about the Premises by Tenant, its agents, employees, contractors, or invitees. If Tenant breaches the obligations stated in the preceding sentence, or if the presence of hazardous material on the Premises caused, or permitted by Tenant results in contamination of the Premises, or if contamination of the Premises by hazardous material otherwise occurs for which Tenant is responsible to Landlord for resulting damage, then Tenant shall indemnify, defend, and hold Landlord harmless from any and all resulting claims, judgments, damages, penalties, fines, costs, liabilities, or losses.

i. **Quiet Enjoyment:** Landlord agrees that upon Tenant paying the Rent and performing Tenant's obligations under the Lease, Tenant shall peacefully and quietly have, hold, and enjoy the Premises throughout the Term or until the Lease is terminated pursuant to its terms. Landlord shall not be responsible for the acts or omissions of any other tenant or third party that may interfere with Tenant's use and enjoyment of the Premises. In the event of any transfer or transfers of Landlord's interest in the Premises or in the Property, other than a transfer for security purposes only, the Landlord shall be automatically relieved of any and all obligations and liabilities accruing from and after the date of such transfer.

j. **Rules and Regulations:** Landlord shall provide Tenant with a copy of all rules and regulations affecting the Premises, and Tenant shall abide by all such rules and regulations.

18. **Subletting or Assignment:** Tenant shall not sublet the Premises or any part thereof, nor assign the Lease or any interest therein, without the prior written consent of Landlord. Such consent shall be at the sole discretion of Landlord. As a condition of assignment or sublease, Landlord may require the continued liability of Tenant or a separate personal guaranty by Tenant or its principal. If Tenant is a corporation, limited liability company, or other entity that is not a natural person, any change in ownership of more than thirty percent (30.0%) (over any period) of the ownership interest shall be deemed an assignment of the Lease. In the event an assignment or sublease is permitted, all payments from assignee or sublessee shall be made directly by said party to Landlord, and not through Tenant.

19. **Surrender of Premises:** Tenant will return the Premises to Landlord at the expiration of the Term in as good order and repair as when Tenant took possession, loss by casualty and normal wear and tear excepted. Any deterioration or damage caused by accident, abuse, carelessness, or negligence shall not be considered normal wear and tear. In the event that




Tenant fails to redeliver the Premises in appropriate condition, Landlord may restore the Premises to appropriate condition, including repair, replacement, and cleaning. The cost of any work necessitated shall be deducted from the Security Deposit; if the Security Deposit is insufficient to cover work performed, Tenant shall be obliged to pay the additional balance.

20. Removal of Fixtures/Redelivery: Tenant shall remove, at the termination of the Lease, provided Tenant is not in Default, Tenant's moveable trade fixtures and other items of personal property that are not permanently affixed to the Premises. Tenant shall remove the alterations and additions and signs made by Tenant as Landlord may request and repair any damage caused by such removal. Tenant shall peaceably yield up the Premises and all alterations and additions thereto (except such as Landlord has requested Tenant to remove); and all fixtures, furnishings, floor coverings, and equipment that are permanently affixed to the Premises which shall thereupon become the property of the Landlord. Any personal property of Tenant not removed within five (5) days following such termination shall, at Landlord's option, become the property of Landlord.

PAYMENTS

21. Payments/Dishonored Checks: Payments shall be deemed received when actually delivered to, and received by, Landlord at the payment location. Dishonored checks and any checks received late in the mail will be treated as late payments. Additional bank and handling charges may also be assessed in the event of a dishonored check. The foregoing items shall be deemed Additional Rent. Landlord may require Tenant to replace such dishonored check with a money order, cashier's check, or other good funds. Landlord may further require that all subsequent payments after a dishonored check be paid with a money order, cashier's check, or other good funds.

22. Partial Payment: If any partial payment is made by Tenant, it shall be allocated first to the payment of Additional Rent, including, without limitation, utilities (if applicable) and other expenses; and second to unpaid Rent. Acceptance by Landlord of any partial payment shall not waive the right of Landlord to require immediate payment of the unpaid balance of Rent or waive or affect Landlord's rights to institute legal proceedings including, without limitation, an eviction action.

23. No Offset: No assent, express or implied, to any Default of any one or more of the agreements hereof shall be deemed or taken to be a waiver of any succeeding or other Default. The covenants set forth in the Lease are independent. Tenant shall have no right to withhold or set off any Rent due Landlord.

24. Joint and Several Obligations of Tenant: In the event more than one person comprises Tenant, it is expressly understood and agreed that each person comprising Tenant is jointly and severally liable for any and all obligations of Tenant in the Lease. This means that all persons comprising Tenant are each, together and separately, responsible for all of Tenant's obligations. Landlord may, at its option, determine whom to hold responsible.

SECURITY DEPOSIT

25. Security Deposit:

a. Security Deposit: To secure the faithful performance by Tenant of all of Tenant's covenants, conditions, and agreements in the Lease to be observed and performed, Tenant shall deposit with Landlord the Security Deposit prior to commencement of the Lease. The Security Deposit may also be used in the event of termination of the Lease by re-entry, eviction, or otherwise.

b. Application of Security Deposit: The parties agree: (1) that the Security Deposit or any portion thereof, may be applied to the curing of any Default that may exist, and/or payment of subsequent damages and costs incurred by Landlord, without prejudice to any other remedy or remedies that the Landlord may have on account thereof, and upon such application Tenant shall pay Landlord on demand the amount so applied, which shall be added to the Security Deposit so it will be restored to its original amount; (2) that should the Premises be conveyed by Landlord, the Security Deposit or any portion thereof may be turned over to Landlord's grantee, and if the Security Deposit is turned over, Tenant agrees to look to such grantee for such application or return; (3) that Landlord shall not be obligated to hold Security Deposit as a separate fund; (4) that should the Rent be increased, the Security Deposit shall be increased in the same proportion within thirty (30) days of such Rent increase; and (5) that should a Default occur, Landlord may, as an additional remedy, increase the Security Deposit at its sole discretion.

c. Return of Security Deposit: If Tenant shall perform all of its respective covenants and agreements in the Lease, the Security Deposit, or the portion thereof not previously applied pursuant to the provisions of the Lease, together with a statement, shall be returned to Tenant without interest, no later than sixty (60) days after the expiration of the Term, or





any renewal or extension thereof (or such earlier time if required by applicable law), provided Tenant has vacated the Premises and surrendered possession thereof to Landlord.

REPAIRS AND MAINTENANCE

26. Improvements, Repairs, and Maintenance: Subject to the limitations set forth in Paragraphs 27 and 28 below, either Landlord or Tenant, as specified in Paragraph 12 above, shall be responsible for the cost and condition of the respective improvements, repairs, and maintenance relating to all structural components, interior and exterior walls, floors, ceiling, roofs, sewer connections, plumbing, wiring, appliances, and glass used in connection with the Premises.

27. Landlord's Limited Responsibility: In the event Paragraph 12 of the Lease provides for Landlord's responsibility for certain repair and maintenance, Landlord shall be responsible for: (i) any repairs, replacements, restorations, or maintenance that have been necessitated by reason of ordinary wear and tear, and (ii) any repairs, replacements, restorations, or maintenance that have been necessitated by sudden natural forces, or acts of God, or by fire not caused by Tenant. The cost of any maintenance, repairs, or replacements necessitated by the act, neglect, misuse, or abuse of Tenant, its agents, employees, customers, licensees, invitees, or contractors shall be paid by Tenant to Landlord promptly upon billing. Landlord shall use reasonable efforts to cause any necessary repairs to be made promptly; provided, however, that Landlord shall have no liability whatsoever for any delays in causing such repairs to be made, including, without limitation, any liability for injury to or loss of Tenant's business, nor shall any delays entitle Tenant to any abatement of Base and Additional Rent or damages, or be deemed an eviction of Tenant in whole or in part.

28. Tenant's Allowed Responsibilities: In the event Paragraph 12 of the Lease provides for Landlord's responsibility for certain repair and maintenance, Tenant shall not perform or contract with third parties to perform any repairs of any kind upon the Premises or structure upon which the Premises are located. In the event any repair that is the responsibility of Landlord becomes necessary, Tenant shall notify Landlord as soon as possible, and allow reasonable time for the work to be completed. Any unauthorized work performed or contracted for by Tenant will be at the sole expense of Tenant.

29. Tenant's Duty to Repair: In the event Paragraph 12 of the Lease provides for Tenant's responsibility for certain repair and maintenance, Tenant shall, at Tenant's sole cost and expense, maintain the Premises, including, but not limited to, the plumbing, exterior plate glass, and window frames, electric wiring, HVAC equipment, fixtures, appliances, and interior walls, doorways, and appurtenances belonging thereto installed for the use or used in connection with the Premises (and including the foundation, exterior walls, and roof of the Improvements, if so provided in Paragraph 12). Tenant shall, at Tenant's own expense, make as and when needed all repairs to the Premises and to all such equipment, fixtures, appliances, and appurtenances necessary to keep the same in good order and condition. Tenant repairs shall include all replacements, renewals, alterations, and betterments (the "Tenant Repairs"). All Tenant Repairs shall be equal or better in quality and class to the original work. In the event Tenant fails to complete Tenant Repairs, Landlord may obtain them and bill Tenant for such work as Additional Rent.

30. Tenant Improvements: Unless otherwise provided in the Work Letter, Tenant shall be solely responsible for any and all improvements and alterations within the Premises necessary for Tenant's intended use of the Premises, including, but not limited to, electrical wiring, HVAC, plumbing, framing, drywall, flooring, finish work, telephone systems, wiring, and fixtures necessary to finish the Premises to a condition suitable for Tenant's use (the "Tenant Work").

31. Improvements/Prior Landlord Consent: Tenant agrees to submit to Landlord complete plans and specifications, including engineering, mechanical, and electrical work covering any and all contemplated Tenant Work, if applicable, and any subsequent improvements or alterations of the Premises. The plans and specifications shall be in such detail as Landlord may require, and in compliance with all applicable statutes, ordinances, regulations, and codes. As soon as reasonably feasible thereafter, Landlord shall notify Tenant of any failures of Tenant's plans to meet with Landlord's approval. Tenant shall cause Tenant's plans to be revised to the extent necessary to obtain Landlord's approval. Tenant shall not commence any Tenant Work, or any other improvements, or alterations of Premises until Landlord has approved Tenant's plans.

32. Tenant Work and Repairs/Compliance with Codes/Mechanic Liens: Tenant shall procure all necessary permits before undertaking Tenant Work or Tenant Repairs. Tenant shall perform all Tenant Work or Tenant Repairs in a good and workmanlike manner. Tenant shall use materials of good quality and perform Tenant Work or Tenant Repairs only with contractors previously approved of in writing by Landlord. Tenant shall comply with all laws, ordinances, and regulations, including, but not limited to, building, health, fire, and safety codes. Tenant hereby agrees to hold Landlord and Landlord's agents harmless and indemnified from all injury, loss, claims, or damage to any person or property (including the cost for

b. Tenant's personal property and the personal property of any guest, invitee, licensee, or occupant may be removed from the Premises and left on the street or alley, or, at Landlord's option, it may be removed and stored, or disposed of at Landlord's sole discretion. Landlord shall not be deemed a bailee of the property removed and Landlord shall not be held liable for the property. Tenant shall indemnify Landlord for any expense in defending against any claim by Tenant or third party and for any legal expense, cost, fine, or judgment awarded to a third-party as a result of Landlord's action under the term of the Lease;

c. Landlord may attempt to relet the Premises for such rent and under such terms as Landlord believes appropriate;

d. Landlord may enter the Premises, clean and make repairs, and charge Tenant accordingly;

e. Any money received by Landlord from Tenant shall be applied first to Rent, Additional Rent, and other payments due; and

f. Tenant shall surrender all keys and peacefully surrender and deliver up possession of the Premises.

INSURANCE AND INDEMNIFICATION

39. **Negligent Damages:** Tenant shall be responsible for and reimburse Landlord for any and all damages to the Premises or Property and persons and property therein caused by the negligent, grossly negligent, reckless, or intentional acts of itself, its employees, agents, invitees, licensees, or contractors.

40. **Liability Indemnification/Insurance:** Tenant shall hold Landlord, Landlord's agents, and their respective successors and assigns, harmless and indemnified from all injury, loss, claims, or damage to any person or property while on the Premises, or any other part of the Property, or arising in any way out of Tenant's business, which is occasioned by a negligent, intentional, or reckless act, or omission of Tenant, its employees, agents, invitees, licensees, or contractors. Tenant shall maintain public liability insurance insuring Landlord and Landlord's agents, as their interest may appear, against all claims, demands, or actions for injury to or death in an amount of not less than one million dollars (\$1,000,000) arising out of any one occurrence, made by, or on behalf of any person, firm, or corporation, arising from, related to, or connected with the conduct and operation of Tenant's business, including, but not limited to, events on the Premises and anywhere upon the Property. Tenant shall also obtain coverage in the amount of one million dollars (\$1,000,000) per occurrence covering Tenant's contractual liability under the aforesaid indemnification clauses.

41. **Fire/Casualty Insurance:** Tenant shall maintain plate glass insurance covering all exterior plate glass in the Premises, fire, extended coverage, vandalism, and malicious mischief insurance and such other insurance as Tenant may deem prudent, covering all of Tenant's stock in trade, fixtures, furniture, furnishings, floor coverings, and equipment in the Premises.

42. **Insurance Requirements:** All of Tenant's insurance related to the Premises and the Property shall be in the form and from responsible and well-rated companies satisfactory to Landlord, shall name Landlord as an additional insured thereunder, and shall provide that the insurance will not be subject to cancellation, termination, or change except after at least thirty (30) days prior written notice to Landlord. The policies or duly executed certificates for such insurance shall be provided to Landlord prior to commencement of Term and upon request of Landlord.

43. **Waiver of Liability:** Landlord and Landlord's agents and employees shall not be liable for, and Tenant waives all claims for, damage to property sustained by Tenant, employees, agents or contractors, or any other person claiming through Tenant, resulting from any accident in or upon the Premises or the Property of which they shall be a part, including, but not limited to, claims for damage resulting from: (1) any equipment or appurtenances becoming out of repair; (2) Landlord's failure to keep the Property or the Premises in repair; (3) injury done or occasioned by wind, water, or other act of God; (4) any defect in, or failure of, plumbing, heating, or air-conditioning equipment, electric wiring, or installation thereof, gas, water and steam pipes, stairs, porches, railings, or walks; (5) broken glass; (6) the backing-up of any sewer pipe, or downspout; (7) the bursting, leaking, or running of any tank, tub, sink, sprinkler system, water closet, waste pipe, drain, or any other pipe or tank in, upon, or about the Property or Premises; (8) the escape of steam, or hot water; (9) water, snow, or ice being upon, or coming through the roof, skylight, doors, stairs, walks, or any other place upon, or near such Property, or the Premises, or otherwise; (10) the falling of any fixtures, plaster, or stucco; (11) fire or other casualty; and (12) any act, omission, or negligence of co-Tenants, or of other persons or occupants of the Property, or of adjoining or contiguous buildings, or of adjacent or contiguous property.





defending against the foregoing) occasioned by, or growing out of Tenant Work or Tenant Repairs. Tenant shall promptly pay when due the entire cost of any Tenant Work or Tenant Repairs on the Premises undertaken by Tenant, so that the Premises shall at all times be free of liens for labor and materials. Tenant hereby agrees to indemnify, defend, and hold Landlord harmless of and from all liability, loss, damages, costs, or expenses, including reasonable attorneys' fees, incurred in connection with any claims of any nature whatsoever for work performed for, or materials, or supplies furnished to Tenant, including lien claims of laborers, materialmen, or others. Should any such liens be filed or recorded against the Premises or the Improvements with respect to work done for, or materials supplied to, or on behalf of Tenant, or should any action affecting the title thereto be commenced, Tenant shall cause such liens to be released of record within five (5) days after notice thereof. If Tenant desires to contest any such claim of lien, Tenant shall nonetheless cause such lien to be released of record by the posting of adequate security with a court of competent jurisdiction as may be provided by Colorado's mechanic's lien statutes. If Tenant shall be in default in paying any charge for which such mechanic's lien or suit to foreclose such lien has been recorded or filed and shall not have caused the lien to be released as aforesaid, Landlord may (but without being required to do so) pay such lien or claim and any associated costs, and the amount so paid, together with reasonable attorneys' fees incurred in connection therewith, shall be immediately due from Tenant to Landlord as Additional Rent.

33. Common Area Maintenance: Landlord shall use reasonable efforts to maintain and repair Common Areas of Property, including walks and parking lots. The cost of any maintenance, repairs, or replacements necessitated by the act, neglect, misuse, or abuse by Tenant, its employees, licensees, invitees, or contractors shall be paid by Tenant to Landlord. Landlord shall use reasonable efforts to cause any necessary repairs to be made promptly; provided, however, that Landlord shall have no liability whatsoever for any delays in causing such repairs to be made, including, without limitation, any liability for injury to or loss of Tenant's business, nor shall any delays entitle Tenant to any abatement of Rent or damages, or be deemed an eviction of Tenant in whole or in part.

34. Keys/Locks: Tenant shall not place any additional locks upon the Premises, including, but not limited to, exterior and interior door, without prior permission from Landlord. Tenant shall not cause any of the locks or cylinders therein to be changed or re-keyed.

35. Waste/Rubbish Removal: Tenant shall not lay waste to the Premises. Tenant shall not perform any action or practice that may injure the Premises or Property. Tenant shall keep the Premises and the Property surrounding the Premises free and clear of all debris, garbage, and rubbish. Unless otherwise provided for in the Lease, Tenant shall be responsible for contracting for and paying for trash and debris removal required by Tenant's use of the Premises.

DEFAULT, NOTICE AND REMEDIES

36. Default: If Tenant is in arrears in the payment of any installment of Rent, any Additional Rent, or any portion thereof, or is in violation of any other covenants or agreements set forth in the Lease (a "Default") and the Default remains uncorrected for a period of three (3) days after Landlord has given written notice thereof pursuant to applicable law, then Landlord may, at Landlord's option, undertake any of the following remedies without limitation: (a) declare the Term of the Lease ended; (b) terminate Tenant's right to possession of the Premises and reenter and repossess the Premises pursuant to applicable provisions of the Colorado Forcible Entry and Unlawful Detainer statute; (c) recover all present and future damages, costs, and other relief to which Landlord is entitled; (d) pursue Landlord's lien remedies; (e) pursue breach of contract remedies; and (f) pursue any and all available remedies in law or equity. In the event possession is terminated by reason of a Default prior to expiration of the Term, Tenant shall remain responsible for the Rent and Additional Rent, subject to Landlord's duty to mitigate such damages. Pursuant to §§ 13-40-104(d.5) and (e.5), and 13-40-107.5, C.R.S., hereby incorporated by reference, in the event repeated or substantial Defaults(s) under the Lease occur, Landlord may terminate Tenant's possession upon a written Notice to Quit, without a right to cure. Upon such termination, Landlord shall have available any and all of the remedies listed above.

37. Abandonment: In the event of an abandonment of the Premises, Landlord may, without being obligated to do so and without terminating the Lease, retake possession of the Premises and exercise any of the remedies contained in Paragraph 38 below.

38. Re-Entry: In the event of re-entry by Landlord as a result of abandonment or a Default by Tenant:

a. Tenant shall be liable for damages to Landlord for all loss sustained, including, without limitation, the balance of the Rent and Additional Rent, court costs, and reasonable attorneys' fees;

44. Third-Party Liability: Landlord shall not be liable to Tenant for any damage by or from any act or negligence of any co-tenant or other occupant of the Improvements, or by any owner or occupant of adjoining or contiguous property. Landlord shall not be liable for any injury or damage to persons or property resulting in whole or in part from the criminal activities of others. To the extent not covered by normal fire and extended coverage insurance, Tenant agrees to pay for all damage to the Improvements.

45. Landlord Insurance: Insurance shall be procured by Landlord in accordance with its sole discretion. All awards and payments thereunder shall be the property of the Landlord, and Tenant shall have no interest in the same. Notwithstanding the foregoing, Landlord agrees to obtain building liability and hazard insurance required to be carried for the Property and Premises and adequate hazard insurance, which covers replacement cost of the Property and Premises.

46. Indemnification Fees and Costs: In case any claim, demand, action, or proceeding is made or brought against Landlord, its agents, or employees, by reason of any obligation on Tenant's part to be performed under the terms of the Lease or arising from any act of negligence of Tenant or its agents or employees, or which gives rise to Tenant's obligation to indemnify Landlord, Tenant shall be responsible for all costs and expenses, including, but not limited to, reasonable attorneys' fees incurred in defending or prosecution of the same, as applicable.

OTHER PROVISIONS

47. Destruction, or Condemnation of Premises: Landlord's and Tenant's duties and responsibilities are as follows when destruction or condemnation of the Premises occurs:

a. Partial Destruction of the Premises: In case of partial destruction of the Premises by fire, or other casualty, Landlord at its discretion may repair the Premises with reasonable dispatch after notice of said partial destruction. Tenant shall remain responsible for payment of Rent. Subparagraph (d) of this Paragraph shall apply if Landlord determines that the partial destruction will not be repaired.

b. Premises Untenable: If the Premises are made totally untenable by fire, the elements, or other casualty, or if the building in which the Premises are located is partially destroyed to the point where Landlord, within a reasonable time, decides not to rebuild, or repair, then Subparagraph (d) of this Paragraph shall apply.

c. Condemnation: If the whole or part of the Premises are taken by any authority for any public or quasi-public use, or purpose, then Subparagraph (d) of this Paragraph shall apply. All damages and compensation awarded for any taking shall be the sole property of Landlord.

d. Termination of Term: Tenant agrees that if Landlord decides not to repair, or rebuild the Premises where the destruction has occurred as described in Subparagraphs (a) and (b) of this Paragraph, the Term hereby granted by the Lease shall cease and the Rent and Additional Rent shall be prorated and payable up to the time of the cessation of the Term. A refund will be given for the balance of any Rent paid in advance for which Tenant did not have use of the Premises due to the cessation of the Term under the conditions of this Paragraph. Where the Premises have been taken due to condemnation as described in Subparagraph (c) of this Paragraph, the Term of the Lease shall cease and terminate upon the date that possession of the Premises is taken by the authority. Rent and Additional Rent shall be prorated and payable up to the time of the cessation of the Term. Tenant shall not hold Landlord liable for any damages as a result of any of the acts or events described in this subparagraph.

48. Holdover: Tenant shall vacate the Premises and remove all of Tenant's personal property from the Premises prior to 11:59 p.m. on the date the Term expires. Landlord may immediately commence eviction proceedings at its sole discretion. If, after the expiration of the Lease, Tenant shall remain in possession of the Premises and continue to pay Rent without a written agreement as to such possession, then such tenancy shall be regarded as a month-to-month tenancy, at a monthly rental, payable in advance, equivalent to the last month's Rent paid under the Lease, and subject to all the terms and conditions of the Lease.

49. Entry by Landlord: Landlord may enter the Premises at reasonable hours for reasonable purposes (such as repairs, inspections, or re-letting to prospective new tenants), upon reasonable notice to Tenant. Landlord may also enter the Premises in the event of emergency, without notice, or in the event of vacancy of the Premises, as described in Paragraph 38.

50. Guarantor: In the event the Lease is guaranteed, the person(s) guaranteeing the Lease ("Guarantor") hereby absolutely guarantees Tenant's obligations and performance under the Lease. Guarantor further agrees to be bound by the same





covenants and conditions of the Lease and hereby makes the same warranties and representations as Tenant hereunder. If Tenant defaults in the performance of its obligations under the Lease, Guarantor will perform said obligations.

51. Subordination/Estoppel/Attornment: The Lease shall be subordinate to all existing and future mortgages, deeds of trust, and other security interests on the Premises and to any and all extensions, renewals, refinancing, and modifications thereof. Tenant shall execute and deliver whatever instruments may be required for such purposes, or for the purpose of informing a potential or existing lender or purchaser of the Property as to the status of its tenancy. Any such instruments or estoppel letters shall contain all information reasonably required by Landlord or other entity in conjunction with such transaction. Tenant agrees to attorn to a lender or other party coming into title to the Property upon written request of Landlord.

52. Notices: All notices required to be sent under the Lease shall be in writing and either: (i) delivered as provided by applicable law, including, *inter alia*, § 13-40-101, C.R.S., *et seq.*, [Colorado Forcible Entry and Unlawful Detainer statute]; (ii) personally delivered, with proper proof of service; or (iii) sent via U.S. first class mail, postage prepaid. All notices required to be sent to Landlord shall be sent or delivered to the address where the Rent is to be paid, and all notices required to be sent to Tenant shall be sent or delivered to the Corporate Office at 1519 E. Main Street, Montrose, CO 81401, unless otherwise specified in the Lease. Notwithstanding the foregoing, all notices involving or concerning § 13-40-101, C.R.S., *et seq.* shall be delivered as provided by statute.

53. Attorneys' Fees: In the event Tenant or Landlord fails to perform any of its obligations under the Lease, or in the event a dispute arises concerning the meaning or interpretation of any provision of the Lease, the defaulting party, or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees.

54. Governing Law: The Lease shall be governed by and construed in accordance with the laws of the State of Colorado. Venue shall be proper in the county where the Premises are located.

55. Amendments and Termination: Unless otherwise provided in the Lease, the Lease may be amended, modified, or terminated only by a written instrument executed by Landlord and Tenant.

56. Captions: The paragraph titles or captions in the Lease are for convenience only and shall not be deemed to be part of the Lease.

57. Pronouns; Joint and Several Use of Certain Terms: Whenever the terms referred to in the Lease are singular, the same shall be deemed to mean the plural, as the context indicates, and vice versa. All references to the "Landlord" shall mean Landlord and/or its authorized agents, contractors, or employees as may be required by the specific context. All references to the "Tenant" shall mean each and every person comprising Tenant, or an individual person, or combination of persons comprising Tenant as may be required by the specific context.

58. Waivers: No right under the Lease may be waived except by written instrument executed by the party who is waiving such right. No waiver of any breach of any provision contained in the Lease shall be deemed a waiver of any preceding or succeeding breach of that provision, or of any other provision contained in the Lease. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

59. Heirs, Assigns, Successors: The Lease is binding and inures to the benefit of the heirs, assigns, and successors in interest to the parties, subject to the restrictions on assignment in Paragraph 18.

60. Time of the Essence: Time is of the essence of the Lease, and each and all of its provisions.

61. No Reservation of Option: Submission of this instrument for examination or signature by Tenant does not constitute a reservation of or option for lease, and is not effective as a lease or otherwise until execution and delivery by both Lessor and Tenant.

62. Credit Reports: Tenant hereby grants Landlord permission to obtain from time to time investigative consumer reports to ascertain the creditworthiness of Tenant and Tenant's guarantors, if applicable.

63. Corporate Authorization: If Tenant is a corporation, each individual executing the Lease on behalf of the corporation represents and warrants that he is duly authorized to execute and deliver the Lease on behalf of said corporation in

accordance with a duly adopted resolution of the Board of Directors of the corporation and that the Lease is binding upon the corporation in accordance with its terms. Lessee agrees to provide Landlord with such a resolution within five (5) days of the execution of the Lease.

64. Severability: If any term, covenant, condition, or provision of the Lease, or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of the Lease, or the application of such term, or provision to persons, or circumstances other than those to which it is held invalid, or unenforceable, shall not be affected thereby, and each provision of the Lease shall be valid and shall be enforced to the fullest extent permitted by law.

65. Lead-Based Paint Disclosure Rule: Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, landlords must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Tenant must also receive a federally approved pamphlet on lead poisoning prevention. In the event the Premises were constructed before 1978, Landlord shall comply with the Lead-Based Paint Disclosure, 42 U.S.C. § 4852d.

66. Other Applicable Laws: Federal, state, county, or municipal laws and ordinances may affect the Premises, the Lease, and Landlord/Tenant relationship that are not specifically addressed in the Lease. Landlord and Tenant should consult legal counsel prior to execution of the Lease to ascertain such information.

67. ADA Compliance: Tenant shall not cause or permit any violation of the Americans with Disabilities Act (the "ADA") to occur on, or about the Premises by Tenant, its agents, employees, contractors or invitees. Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction of use of rentable or usable space, damages arising from any adverse impact on marketing of space, and sums paid in settlement of claims, attorneys' fees, consultation fees and expert fees) that arise during or after the Term as a result of such violation. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any remedial work required by any federal, state, or local governmental agency or political subdivision because of any ADA violation present on or about the Premises. Tenant shall be permitted to make such alterations to the Premises as may be necessary to comply with the ADA, at Tenant's sole expense and upon the prior written consent of Landlord. Without limiting the foregoing, if the presence of any ADA violation on the Premises caused or permitted by Tenant results in remedial work on the Premises, Tenant shall promptly take all actions at its sole expense as are required by any authority to comply with the ADA; provided that Landlord's consent to such actions shall first be obtained, which shall not be reasonably withheld.

68. Additional Provisions: In the event that there are any additional agreements between the parties or provisions with respect to the Premises, an Addendum may be attached to the Lease, which shall be incorporated by this reference as a part of the Lease. An Addendum containing additional provisions [is] [is not] attached. The Lease and the attached Addendum constitute the entire agreement between the parties.

THE PARTIES SHOULD INITIAL EACH PAGE OF THE LEASE AND SIGN BELOW. EACH PARTY SHOULD RECEIVE A SIGNED COPY OF THE LEASE AND ANY ADDENDA.

TENANT:

Proset Construction, Inc. _____, a(n)

Colorado Corporation _____

[Individual or Type of Entity]

By: Richard J. Buckhead

Its: President _____

Or

[Signature of Individual]

Date: _____

GUARANTOR (if applicable):_____
[Signature]_____
[Print Name]

Date: _____

LANDLORD:

San Miguel Authority for Transportation (SMART)

By: David Averill

Title: SMART Executive Director

Date: 7/19/2022

AMENDMENT TO LEASE AGREEMENT

This AMENDMENT TO LEASE AGREEMENT ("Amendment") is made and entered into effective _____ 2022 by and among the **SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION, ("SMART")** and Colorado Department of Transportation acting through SMART (collectively "Landlord") and **PROSET CONSTRUCTION** ("Tenant").

RECITALS

Land Lord executed a Lease with Tenant dated July 1, 2022, a copy of which is attached hereto as Exhibit "A" (the "Lease").

Landlord and Tenant desire to further amend the Lease as hereinafter provided.

COVENANTS AND AGREEMENTS

NOW, THEREFORE, Landlord and Tenant agree as follows:

1. **Term:** The Lease shall be extended to June 3rd, 2024. Landlord also agrees that Tenant may terminate the Lease without penalty upon Sixty (60) days advance written notice if Tenant secures a new location to relocate its business.
2. **Effect of Amendment:** Except as expressly modified herein, the Lease is unmodified, is hereby ratified and affirmed, will remain in full force and effect in accordance with its terms and will apply to the Premises. If there is any inconsistency between the terms of the Lease and the terms of this Amendment, provisions of this Amendment will govern and control the rights and obligations of Landlord and Tenant.
3. **Counterparts:** This Amendment may be executed in one or more counterparts, each of which will be deemed to be an original, and all such counterparts taken together will constitute one and the same instrument. This Amendment may be executed and delivered by one party to the other by facsimile or e mail (PDF) transmission, and counterparts executed and delivered in such manner will be fully binding and enforceable to the same effect as if an original had been executed and delivered instead. In all other respects, the Lease Agreement remains in full force and effect.

"LANDLORD" SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION

By: _____
 Printed Name: David Averill
 Title: Executive Director

"TENANT"

By: _____
 Printed Name: Richard Buckendorf
 Title: President

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION (SMART)
APPROVING A LEASE AMENDMENT WITH PROSET CONSTRUCTION FOR 135 SOCIETY DRIVE**

RESOLUTION 2023-2

WHEREAS, the San Miguel Authority for Regional Transportation (“SMART”) purchased 135 Society Drive in Lawson Hill in October of 2020; and

WHEREAS, the Board of Directors entered into a lease agreement with Proset Construction for office space at 135 Society Dr. in Lawson Hill, a copy of which is attached hereto, as Exhibit “A”; and

WHEREAS, the Board of Directors desires to execute an Amendment to extend the term of the lease with Proset Construction to June 30th, 2024, a copy of which is attached hereto as Exhibit “B”;

NOW, THEREFORE, be it resolved by the Board of Directors of SMART as follows:

THAT, the Board of Directors hereby approves the lease Amendment with Proset Construction attached hereto as Exhibit “B”; and

THAT, the Board of Directors hereby authorizes and directs the SMART Executive Director to execute Exhibit “B” on behalf of SMART and take all actions necessary and appropriate to effectuate this Resolution.

INTRODUCED, READ AND PASSED by the Board of Directors of the San Miguel Authority for Regional Transportation, Telluride, Colorado, at its regular meeting held on January 12th, 2023.

SAN MIGUEL AUTHORITY FOR REGIONAL
TRANSPORTATION

Joe Dillsworth
Chairman, Board of Directors

Date: _____

WITNESS my hand this _____ day of _____, 2023.

David Averill, SMART Executive Director

AGENDA ITEM SUMMARY (AIS)

San Miguel Authority for Regional Transportation



Meeting Date	Agenda Item	Submitted By
January 12 th , 2023	4	Averill
Objective/Requested Action		
Action is requested of the Board to approve entering into a Cooperative Agreement with the Washington State Department of Transportation (WADOT) in order to utilize the WADOT fixed price agreement for the purchase of large heavy duty transit vehicles.		Report Work Session Discussion X Action
Key Points		
<p>In the fall of 2022, SMART received notice that it was awarded a Federal Transit Administration 5339 discretionary grant that includes funding to purchase up to 5 large heavy duty transit buses. Procurement of this type of vehicle is complex and typically includes developing technical specifications for the vehicles, getting CDOT concurrence on the bid documents and process, running an RFP selection process, securing CDOT approval of the selected vendor/manufacture, then negotiating final pricing, production slots, and delivery timelines with the manufacturer. Furthermore, for a small agency such as SMART with limited numbers of vehicles needed (in our case up to five) running an RFP process on our own often doesn't result in very good pricing because of the low quantity being ordered relative to what larger agencies procure for their fleet needs. For instance, the New York MTA had a recent bid out for 500 of the same type of vehicle we are looking to procure.</p> <p>A popular, efficient, and cost-effective procurement option for smaller agencies such as SMART is to utilize an existing fixed price agreement to purchase transit vehicles. For instance, SMART utilized existing CDOT price agreements for vans and small to mid-sized buses for its last several vehicle purchases. Unfortunately, CDOT does not currently have a price agreement in place for large heavy duty transit buses that SMART has been awarded funding for and has a need to procure in a timely fashion.</p> <p>To move forward quickly on the procurement of these much-needed vehicles, staff is proposing to enter into a Cooperative Agreement with the Washington State Department of Transportation (WADOT) to utilize its existing fixed price agreement for large transit vehicles, which is open to other Federal grant recipients such as SMART.</p> <p>The WADOT agreement has many suitable options available from different manufacturers that will meet SMART's specific needs, has previously been approved by CDOT for use by its sub-recipients, and perhaps most importantly has excellent pricing that would be hard for SMART to lock in if we were running our own procurement process, mainly because of the relatively low quantity of vehicles we are procuring.</p>		
Committee Discussion		
NA		
Supporting Information		
NA		
Fiscal Impact		
We are still waiting for final quotes from our preferred manufacturer but each vehicle will be in the neighborhood of \$650k – 80% of which will be covered by the 5339 grant.		
Advantages		

Utilizing the WADOT agreement has many advantages, including optimum pricing, a quicker procurement process, pre-approval of the procurement process by CDOT, and the ability to do business with a qualified, reputable vendor.
Disadvantages
None noted.
Analysis/Recommendation(s)
Staff recommends that SMART enter into the Cooperative Agreement with WADOT to procure these heavy duty vehicles.
Attachments
Attachment A: Cooperative Agreement with WADOT

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION
APPROVING A COOPERATIVE AGREEMENT WITH THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
FOR THE PURCHASE OF HEAVY DUTY TRANSIT VEHICLES**

RESOLUTION 2023-3

RECITALS:

WHEREAS, SMART has a need for heavy duty transit vehicles to maintain a state of good repair and support its growing operations;

WHEREAS, the Washington State Department of Transportation (WADOT) maintains fixed price agreements for heavy duty transit vehicles that qualified transit agencies are eligible to purchase off of;

WHEREAS, purchasing off of a fixed price agreement is an efficient and cost effective method of procurement that satisfies all Federal and State procurement requirements;

WHEREAS, the WADOT fixed price agreement has a selection of suitable heavy duty transit vehicles and associated options that will meet SMARTs needs ;

WHEREAS, the Colorado Department of Transportation (CDOT) does not currently have fixed price agreements equivalent to what is available through the WADOT fixed price agreement;

WHEREAS, CDOT supports and encourages its grant partners to utilize other fixed price agreements for products that CDOT may not have in place;

WHEREAS, the pricing in the WADOT fixed price agreement that is available to SMART on these vehicles is reasonable and within the spending authorized in the SMART FY23 capital plan;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION:

1. **THAT**, for the purpose of purchasing heavy duty transit vehicles off of the WADOT fixed price agreement the Cooperative Agreement between SMART and WADOT that is attached to this resolution as Exhibit A is approved and shall be executed by the Board Chair.

ADOPTED AND APPROVED BY THE BOARD OF DIRECTORS OF THE SAN MIGUEL AUTHORITY FOR REGIONAL TRANSPORTATION AT A REGULAR PUBLIC MEETING THIS 12TH DAY OF JANUARY 2023.

Joe Dillsworth, Board Chair

ATTEST:

David Averill, Executive Director



COOPERATIVE PURCHASING AGREEMENT

FOR

TRANSIT BUSES

MASTER CONTRACT NO. 06719

This Cooperative Purchasing Agreement for Transit Buses ("Agreement") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and Gunnison Valley Transportation Authority, a special taxing district under the State of Colorado ("Authorized Purchasing Entity") and is dated and effective as of March 24, 2022.

RECITALS

- A. Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and/or services to support Washington state agencies. See RCW 39.26.050(1). The Washington State Legislature also has authorized Enterprise Services to make these master contracts available, pursuant to an agreement in which Enterprise Services ensures full cost recovery, to other local or federal government agencies or entities, public benefit nonprofit organizations, and any tribes located in the State of Washington. See RCW 39.26.050(1) & (2).
- B. In addition, Enterprise Services is authorized "to participate in, sponsor, conduct, or administer a cooperative purchasing agreement." See RCW 39.26.060(1).
- C. Master Contract Cooperative Purchasing Agreements provide an opportunity for Enterprise Services to meet the needs of its customers and, by designing and developing the Competitive Solicitation and resulting Master Contract to include the opportunity for cooperative utilization by Authorized Purchasing Entities through a Cooperative Purchasing Agreement, to meet the needs of similarly situated purchasing entities who collectively enable an innovative, cost-effective, and efficient procurement solution for awarded contractors and eligible purchasers.
- D. The above-referenced Master Contract was competitively bid, evaluated, and awarded pursuant to the State of Washington's procurement laws for goods/services. See RCW 39.26. The procurement and resulting Master Contracts were designed to create competition and awarded contractors for a variety of Transit Buses (contract categories).
- E. The above-referenced Master Contract was designed to and meets Federal Transit Administration ("FTA") requirements for a State Cooperative Purchasing Contract under the FAST Act Sec. 3019. See Pub.L. 114-94.
- F. There are no pending protests or lawsuits pertaining to the procurement or award of the Master Contract.

- G. Enterprise Services maintains procurement and contract records pertaining to the Master Contract including the Competitive Solicitation, Bid Tab, Bidder Profiles, and resulting Master Contracts. In addition, Enterprise Services Transit Buses website identifies the various awarded contractors.
- H. The purpose of this Agreement is to enable the Authorized Purchasing Entity to utilize the above referenced Master Contract consistent with the terms thereof and the terms and conditions set forth herein.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. **TERM.** Upon execution, this Cooperative Purchasing Agreement shall continue for the term of the applicable Master Contract, as amended or extended; *Provided*, however, that, upon written notice to Enterprise Services, Purchasing Entity may terminate its participation in this Cooperative Purchasing Agreement and its ability to utilize the above-referenced Master Contract.
2. **AUTHORIZATION TO UTILIZE THE MASTER CONTRACT.** Consistent with the terms and conditions of the Master Contract and Purchasing Entity's applicable procurement law, Purchasing Entity is authorized to utilize the above-referenced Master Contract as a procurement solution. The State of Washington makes no representation or warranty regarding Purchasing Entity's governing law or whether the Master Contract is an appropriate procurement solution for Purchasing Entity.
3. **CONTRACTOR CONSENT.** Consistent with its applicable procurement authority, Purchasing Entity may propose and negotiate jurisdiction-specific terms with the applicable awarded Contractor to meet Purchasing Entity's needs; *Provided*, however, that any such jurisdiction-specific modifications are subject to agreement with the applicable awarded Contractor. **Under no circumstances, however, will Purchasing Entity's jurisdiction-specific modifications change or modify the Master Contract obligations between the State of Washington and the applicable awarded Contractor.** Upon execution of Purchasing Entity's agreement with the applicable awarded Contractor, Purchasing Entity shall provide a copy of the same to Enterprise Services prior to making any purchases under the Master Contract.
4. **VENDOR MANAGEMENT FEE.** The Vendor Management Fee set forth in the Master Contract shall be paid by the applicable Contractor to Enterprise Services on all applicable purchases. In no event shall Purchasing Entity modify, waive, or terminate the Vendor Management Fee. Any such modification, waiver, or termination of the Vendor Management Fee shall be deemed a material breach of this Agreement and shall terminate the Agreement; and, in the event Purchasing Entity attempts to modify, waive, or terminate the Vendor Management Fee, Purchasing Entity shall, by such act, agree to notify Enterprise Services of the same and to pay to Enterprise Services, within thirty (30) days, the equivalent of the otherwise applicable Vendor Management Fee.
5. **ACCURATE PURCHASES.** Purchasing Entity shall make orders within the scope of the Master Contract. Any purchases outside of the scope of the Master Contract shall constitute a breach of this Agreement. IN the event of such breach, Enterprise Services may terminate this Agreement, including the authorization for any purchases by Purchasing Entity under the Master Contract. Purchasing Entity represents and warrants that it shall use reasonable, good faith efforts to assist the Contractor

in obtaining and reporting to Enterprise Services accurate purchases under the Master Contract for purposes of the applicable Vendor Management Fee.

6. AGREEMENT MANAGEMENT; NOTICES; PURCHASING ENTITY CONTRACT ADMINISTRATOR.

- (a) AGREEMENT MANAGEMENT; NOTICES. The parties hereby designate the following contacts as the respective single points of contact for purposes of this Agreement. The parties may change such individuals by written notice as set forth below. Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services	San Miguel Authority for Regional Transportation
Attn: Bus Purchases	Attn: David Averill
Department of Enterprise Services	Executive Director
PO Box 41411	San Miguel Authority for Regional Transportation
Olympia, WA 98504-1411	PO Box 3140
Email: buspurchases@des.wa.gov	Telluride, CO 81435
	Tel: (970) 988-1219
	Email: david.averill@smarttelluride.com

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

- (b) PURCHASING ENTITY INFORMATION. Purchasing Entity hereby designates the following contract administrator as the single point of contact for business activities under this Agreement.

Purchasing Entity Information	
Organization Name	San Miguel Authority for Regional Transportation
Tax Identification Number	81-4551852
State Business Identification Number (Required for Non-Profit entities)	98064016 (Tax Exempt Certification #)
Contact Name for Contract Administrator	David Averill
Title	Executive Director
Address	PO Box 3140
City, State, Zip	Telluride, CO 81435
Phone Number	970-988-1219
Email Address	david.averill@smarttelluride.com

7. COMMUNICATION. In the event Purchasing Entity becomes aware of a significant contract performance issue pertaining to the Master Contract that, in Purchasing Entity's reasonable judgment, could adversely impact the State of Washington, Purchasing Entity shall communicate the same to Enterprise Services.

8. **CONTRACTOR DISPUTES.** Purchasing Entity is responsible for resolving any disputes between itself and the applicable Master Contract Contractor regarding its purchases. Purchasing Entity shall notify Enterprise Services of any material dispute between Purchasing Entity and the applicable Master Contract Contractor. When appropriate, Enterprise Services may assist Purchasing Entity in resolving such disputes.
9. **NO LIABILITY.** Other than those obligations expressly set forth in this Agreement, including the right of the State of Washington to the Vendor Management Fee, the parties shall have no liability whatsoever to each other with regard to transactions arising out of this Agreement or the Master Contract.
10. **TAXES/FEES.** Unless otherwise agreed with Contractor, Purchasing Entity shall pay applicable sales and use taxes imposed by the tax jurisdictions in which purchase delivery occurs. Contractor agrees not make any charge for federal excise taxes and Purchasing Entity shall furnish Contractor with an exemption certificate where appropriate.
11. **SCOPE OF PARTICIPATION.** Purchasing Entity shall provide Enterprise Services with Purchasing Entity's estimates for purchases under the Master Contract. Purchasing Entity shall provide timely updates regarding such estimated purchases if there is a material change in such planned purchases. The purchasing estimates are for Enterprise Services' planning purposes in managing and approving purchases on the Master Contract.

Category	Estimated Purchases
Heavy Duty	Five (5)
Light/Medium Duty	
Double Decker	
Rebuilt	
Refurbish	
Repower	

12. **APPROVAL PROCESS.** Purchasing Entity shall submit purchase information to Enterprise Services for approval of purchases under the Master Contract. Purchasing Entity shall provide necessary purchase information for each purchase including but not limited to, the final purchase order, the use of FTA funding, FTA grant number, and applicable Department of Transportation contact for approval. Enterprise Services shall include the respective state Department of Transportation for purchasing using FTA funds which require state DOT approval.

13. **GENERAL PROVISIONS**

- (a) **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations and representations. There are no representations or understandings of any kind not set forth herein.
- (b) **AMENDMENT OR MODIFICATION.** Except as set forth herein, this Agreement may not be amended or modified except in writing signed by a duly authorized representative of each party.

- (c) **AUTHORITY.** Each party to this Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- (d) **ELECTRONIC SIGNATURES.** An electronic signature or electronic record of this Agreement or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary agreement for all purposes.
- (e) **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Agreement.

EXECUTED as of the date and year first above written.

TRANSIT BUSES COOPERATIVE
STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

AUTHORIZED PURCHASING ENTITY
SAN MIGUEL AUTHORITY FOR REGIONAL
TRANSPORTATION

By: _____

Name:

Title: _____

By: _____

Name: ____Joe Dillsworth____

Title: ____Board Chair____

Return this Agreement to Enterprise Services at:
 buspurchases@des.wa.gov



• **Update on Real-Time Passenger Information App**

We signed an agreement with Swiftly to conduct a two month pilot program that passengers could use to see their buses in real time. Swiftly Transitime interfaces with the Samsara GPS program installed on our buses to enable the TEX dispatch team to track the buses. So far, the app appears to be working. We can follow the buses on Swiftly and compare with their progress on Samsara. I have also begun to test the performance report module of the program. Again, it seems to work well. I will be testing the performance reporting module against the performance reporting I do currently with Samsara and QGIS.

We met with the Swiftly staff on the Friday before the Board meeting to become familiar with the program and to get answers to a series of questions that I had prepared.

Unlike the last app we tried, Swiftly does not require that drivers make use of tablets. This is helpful because it avoids program failures when the driver forgets to log in.

The Swiftly app interfaces with Transit, Google Maps and Moovit, all of which are available for free on phone or computer App stores. Downloading any of these apps will allow passengers to track their buses on their phones once Swiftly goes live for passenger testing.

When have worked out any kinks and the app goes live, we will be asking various transit users to download the Transit app and try Swiftly out.

• **Update on Senior & Disabled Transit Service Roadmap**

Fehr and Peers have incorporated comments from SMART staff into their final draft of the Senior & Disabled Transit Service Roadmap. They are currently in the process of communicating with Sarah Curtis of All Points Transit and incorporating her comments. They will also reach out to Tri County Health Network.

Fehr and Peers staff will be presenting the final Roadmap to the Board in February.

• **Bus Capacity**

Last month, one of our drivers mentioned that the Norwood bus had become quite crowded. I took this opportunity to examine bus capacity over the course of 2022. This is something that we need to track should the buses become so crowded that we need to add an additional bus.

Understanding the average passenger counts as well as peak ridership days will not only ensure that we add buses if need be, but also allow us to evaluate the size of vehicles being used to ensure efficiency of operations.

While there were a couple of days last year that were crowded, on average, there were a not an excessive number of passengers on any route. SMART has Vehicle Load Standards taken from the Title VI plan. Vehicle Load Standards do allow for standing passengers, however we would prefer that no passenger stand on the longer trips.

The following is SMART's policy with respect to standing on buses:

40' Transit bus - 11 Standing Passengers
30' Transit bus - 8 Standing Passengers
25' Transit bus - 7 Standing Passengers

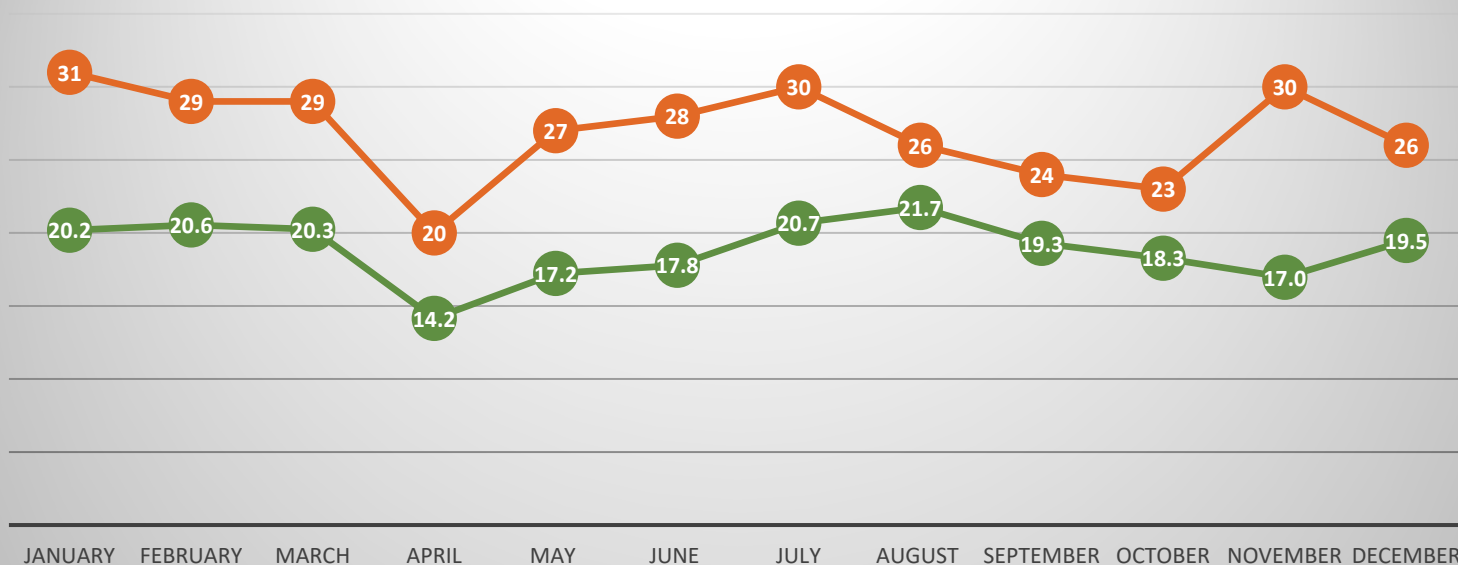
No passengers are allowed to stand or share seats in our vans.

As you can see from the following graphs, average monthly capacity on any route is not yet approaching a level that suggests we should add a buses. The graphs also show peak days and days where ridership has exceeded bus capacity. These are numbers that we will also keep an eye on going forward.

It is worth noting that SMART carries a lot of students to and from the Telluride Middle School/High School district to Telluride. Students from Norwood and Rico are out of district students. Graphs toward the end of this report show percentages of students traveling to school on SMART buses.

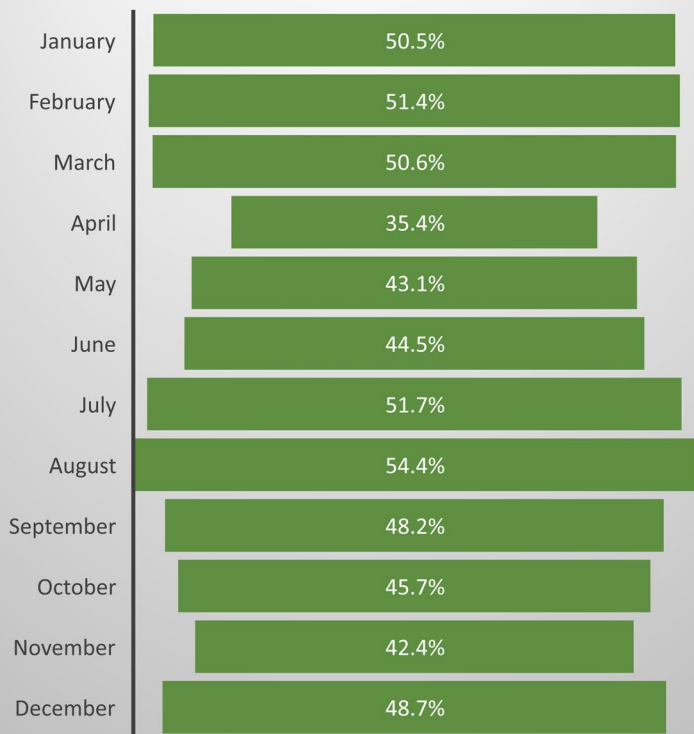


Nucla AM M-F - Average Ridership & Peak Day Ridership



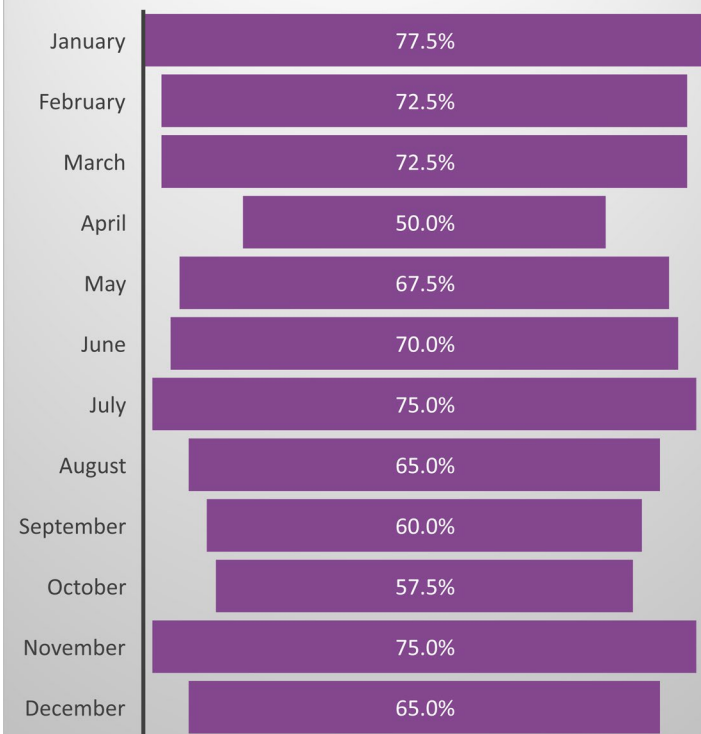
The bus used for the Nucla Route is typically a 40 passenger vehicle. The green line illustrates the average monthly ridership and the orange line shows the highest number of riders that month. Peak days on the Nucla Route AM were in July and August, with 30 riders.

Nucla AM M-F Average Percent of Bus Capacity



Average monthly capacity in 2022 ranged between 35.4% and 51.7%

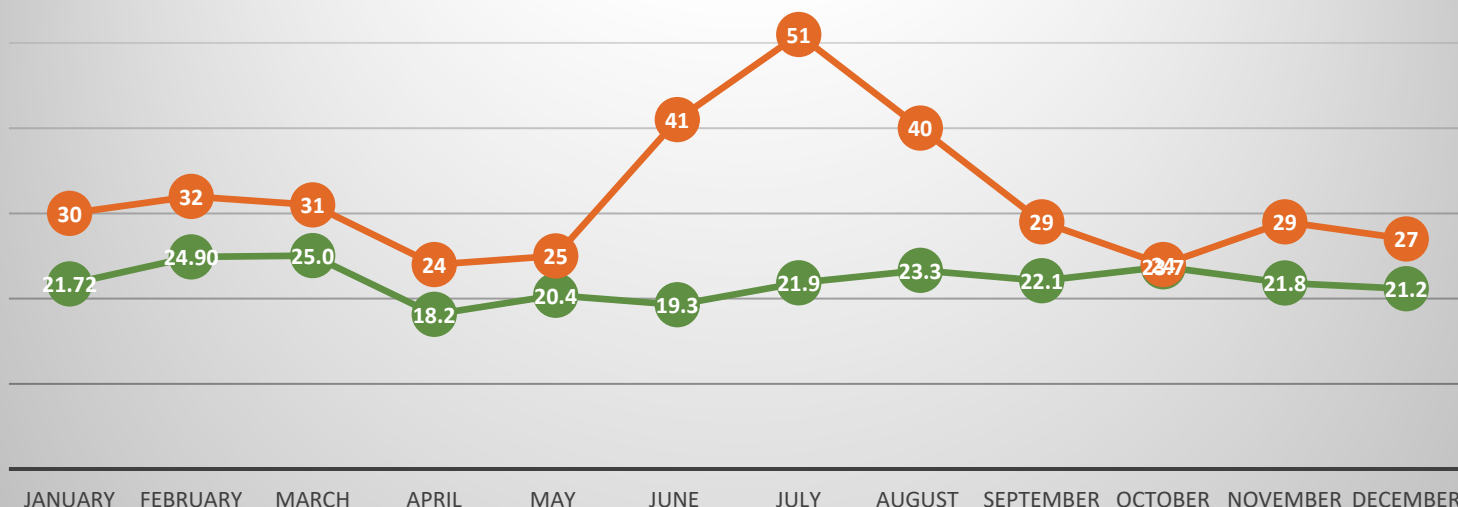
Nucla AM M-F - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the Nucla AM bus reached was 77.5%

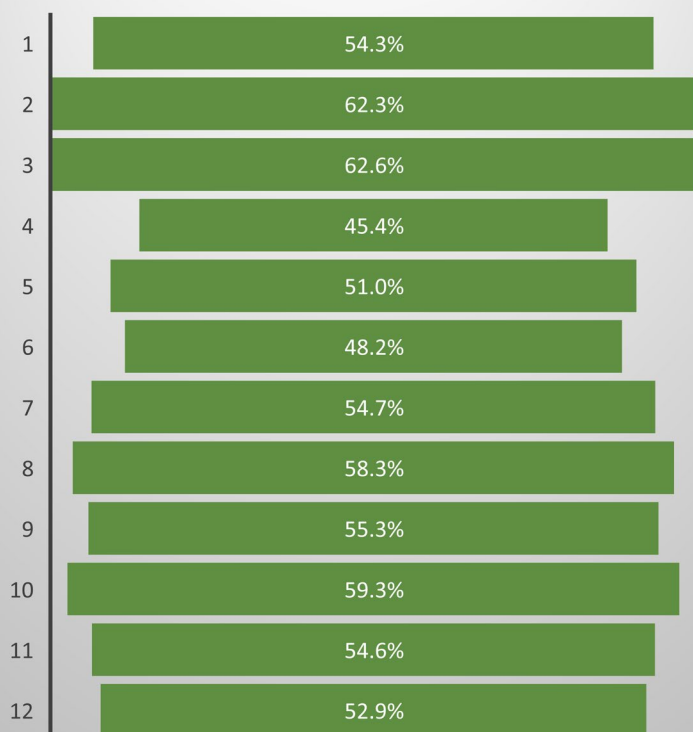


Nucla PM M-F - Average Ridership & Highest Day Ridership



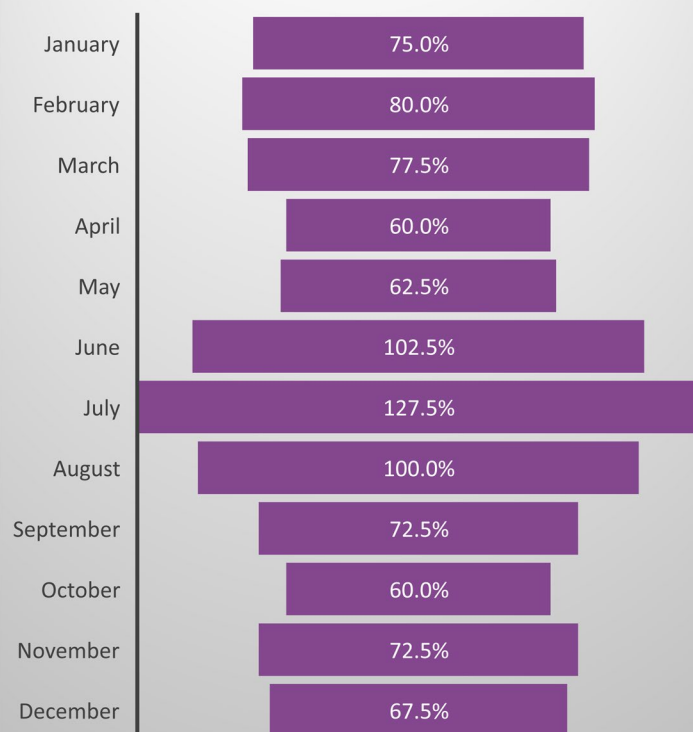
The Nucla Route, with a 5:00 PM departure from Telluride had three months, June, July and August, that ridership exceeded capacity. There is a later bus that leaves Town Park at 5:15 PM which, an option for Norwood passengers should this bus become too crowded.

Nucla PM M-F Average Percent of Bus Capacity



Average monthly capacity on the evening Nucla bus in 2022 ranged between 45.4% and 62.6%. This is our most crowded evening bus.

Nucla PM M-F – Percent Capacity on Peak Days

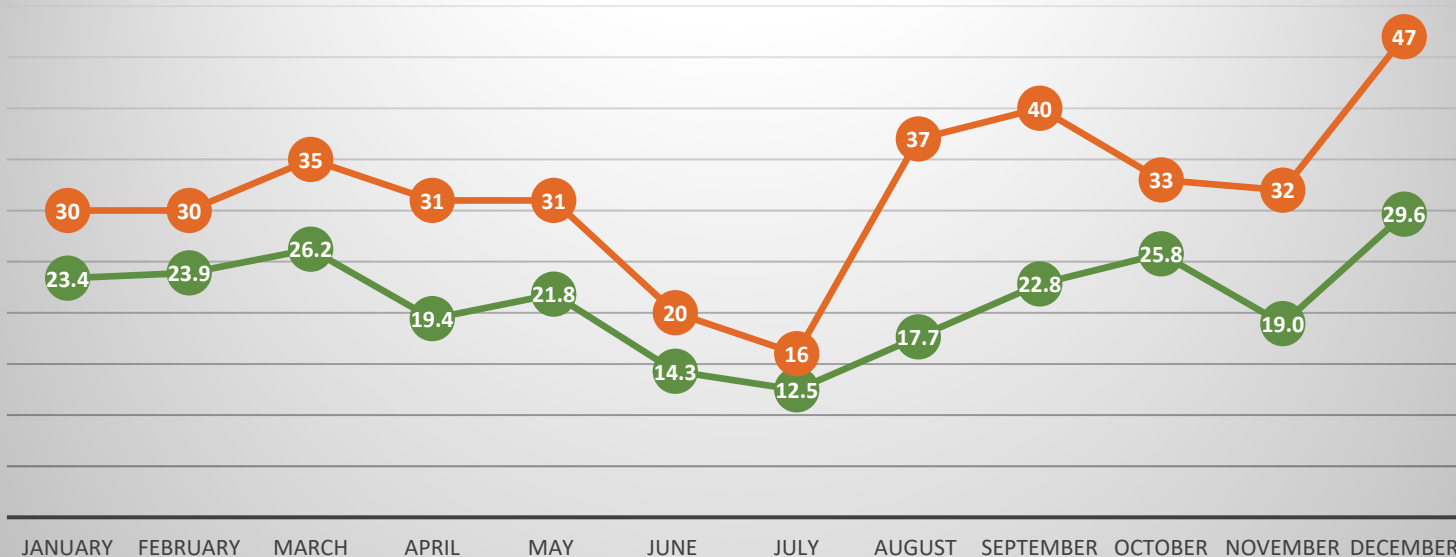


In 2022, the peak capacity that the Nucla PM bus reached was 127.5%.



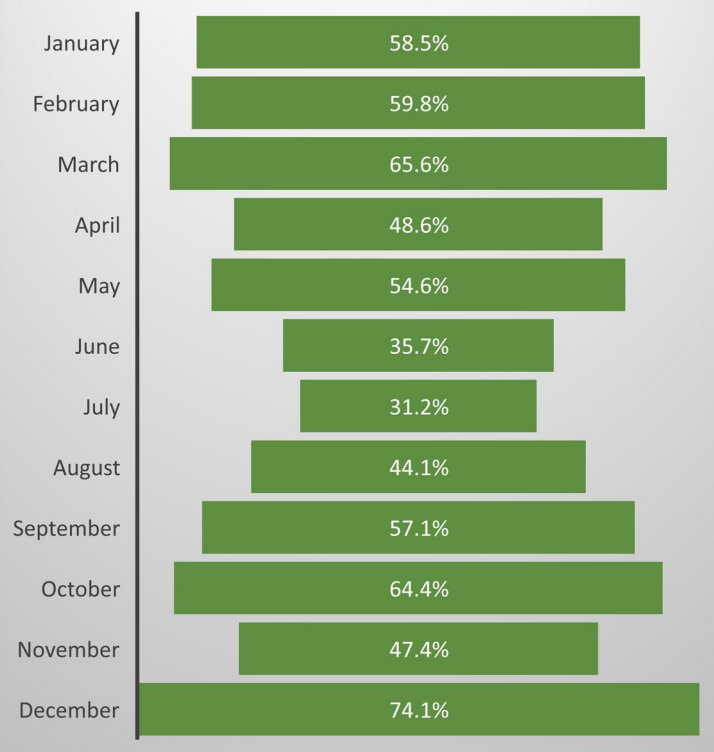
January 5th, 2023

Norwood AM M-F Average Percent of Bus Capacity

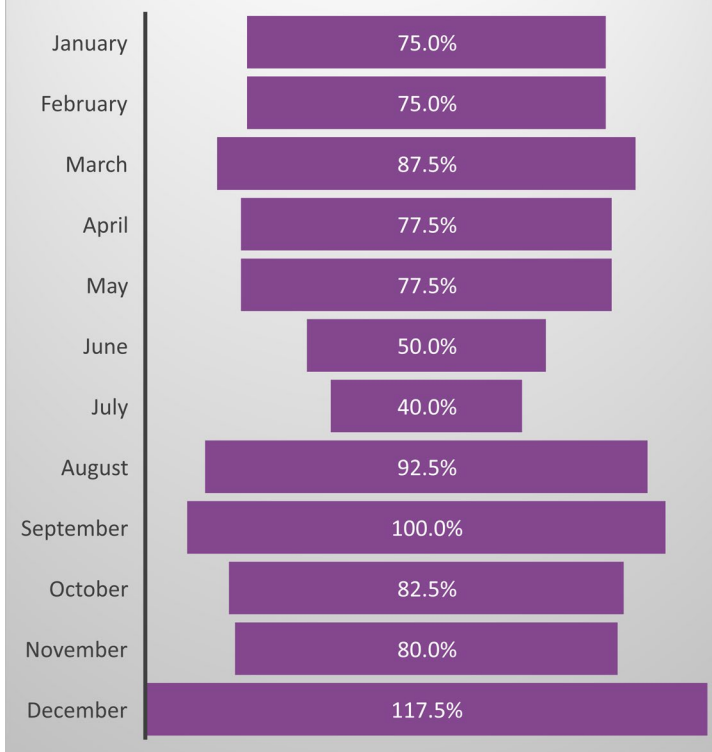


The Norwood AM weekday bus is typically a 40 passenger vehicle. This is our most crowded AM bus, since it transports not only commuters, but also students. In December, there was a day that ridership exceeded capacity.

Norwood AM M-F Average Percent of Bus Capacity



Norwood AM M-F – Percent Capacity on Peak Days



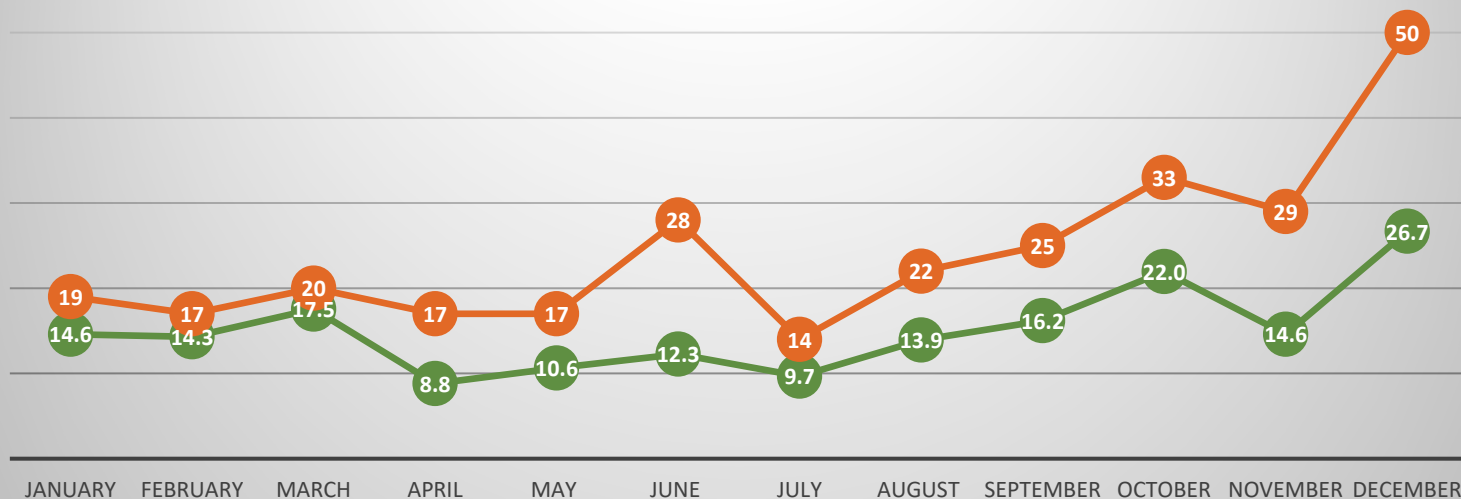
Average monthly capacity in 2022 on the morning Norwood bus in 2022 ranged between 31.2% and 74.1%

In 2022, peak capacity that the Norwood morning bus reached was 117.5%



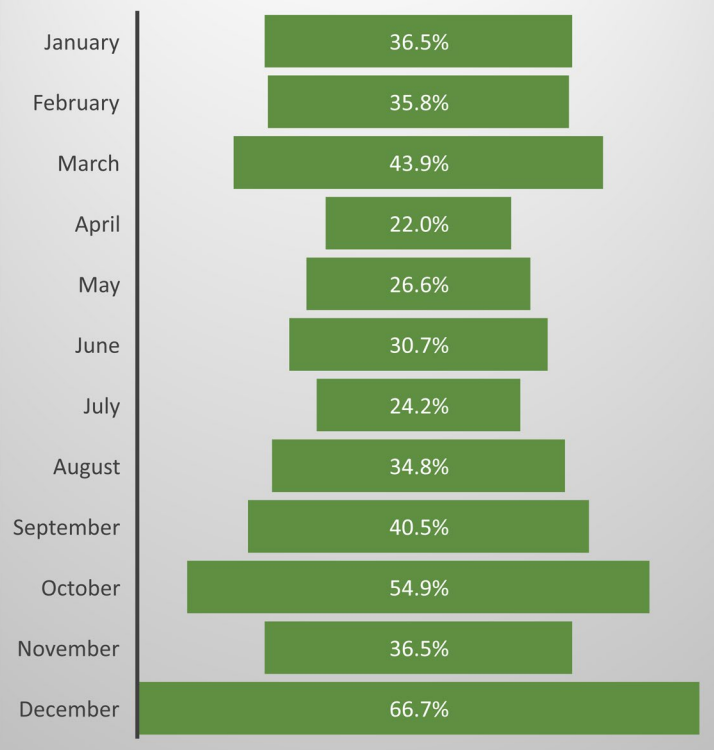
January 5th, 2023

Norwood PM M-F Average Ridership & Highest Day Ridership



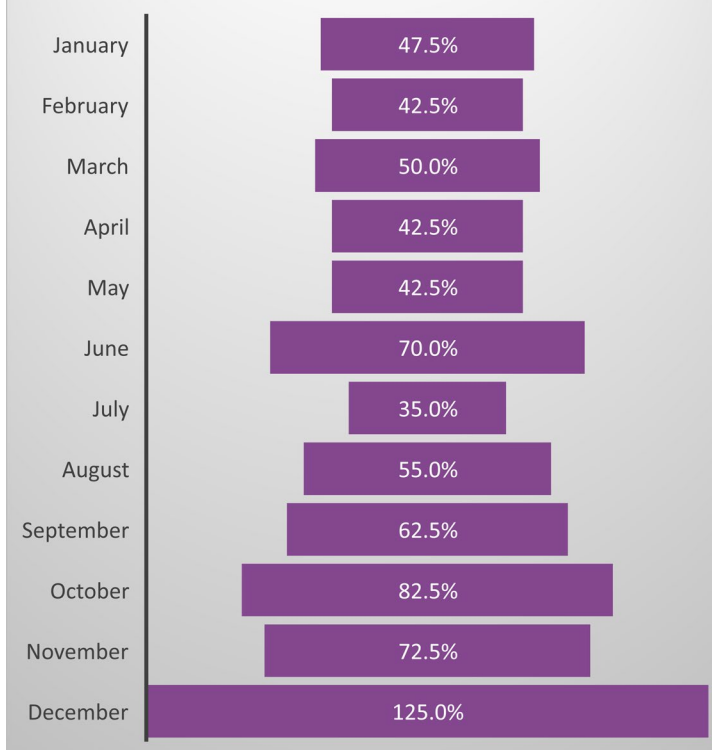
Ridership on the Norwood bus increased in December. This is likely due to the weather, and I believe we can expect increases in January.

Norwood PM M-F Average Percent of Bus Capacity

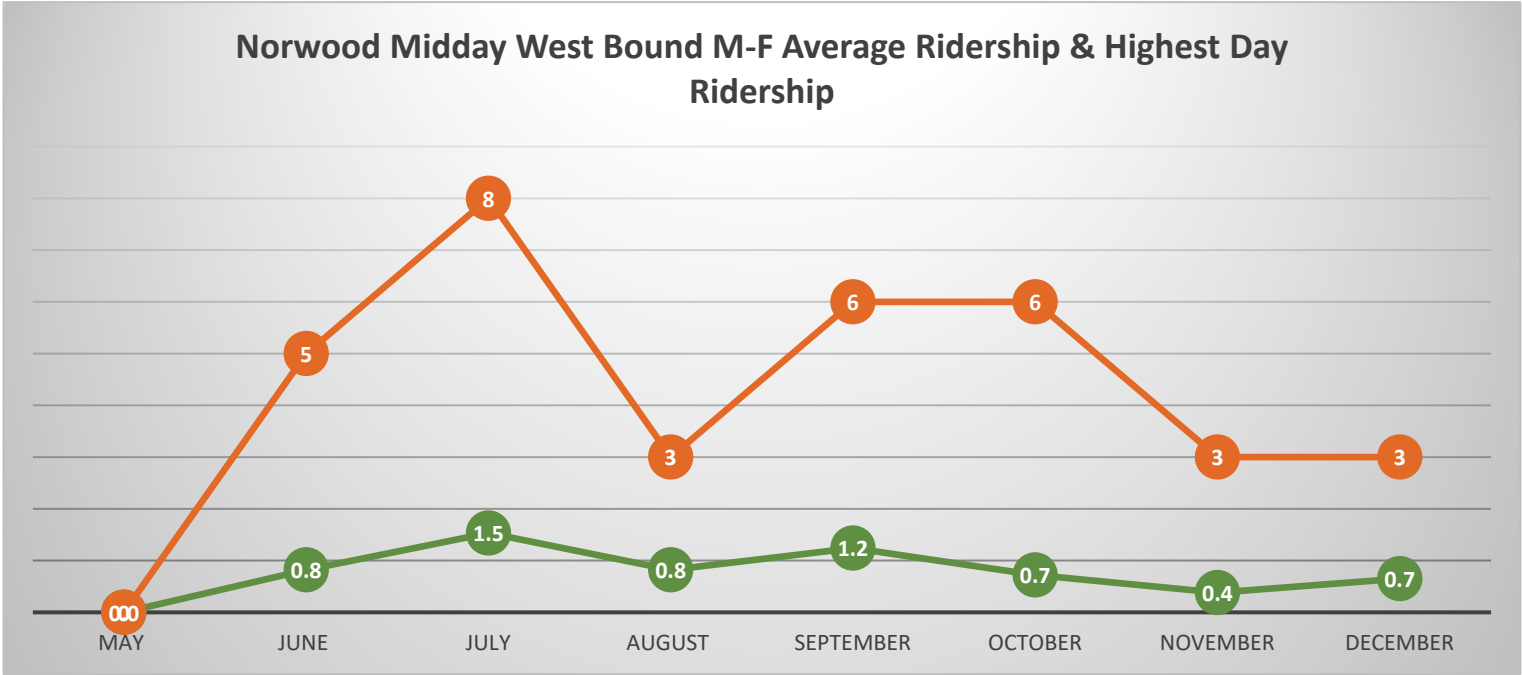


Average monthly capacity on the evening Norwood bus in 2022 ranged between 22.0% and 66.7%. This bus is less popular than the Nucla bus due to the later departure time.

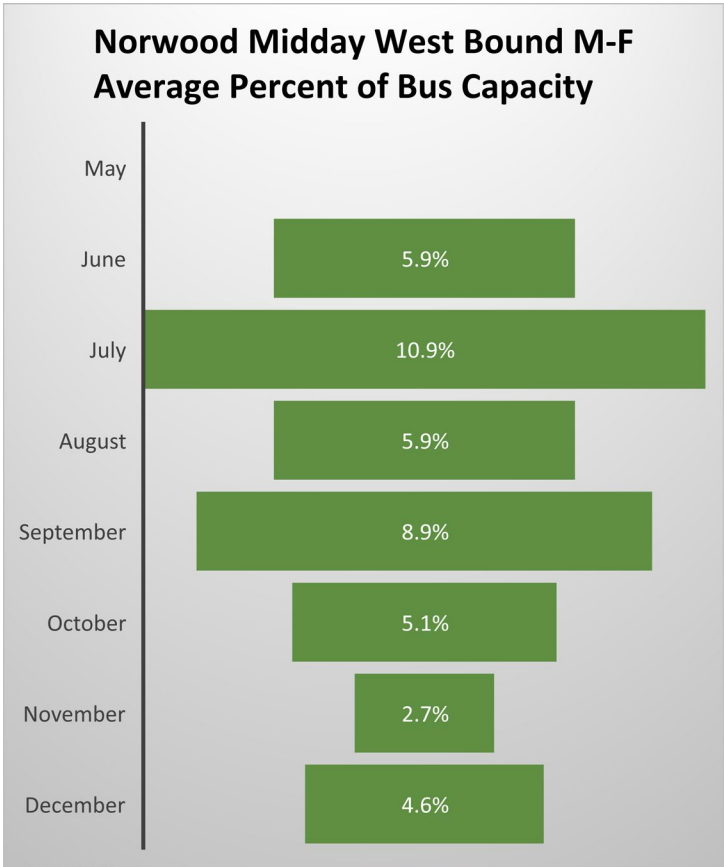
Norwood PM M-F Percent Capacity on Peak Days



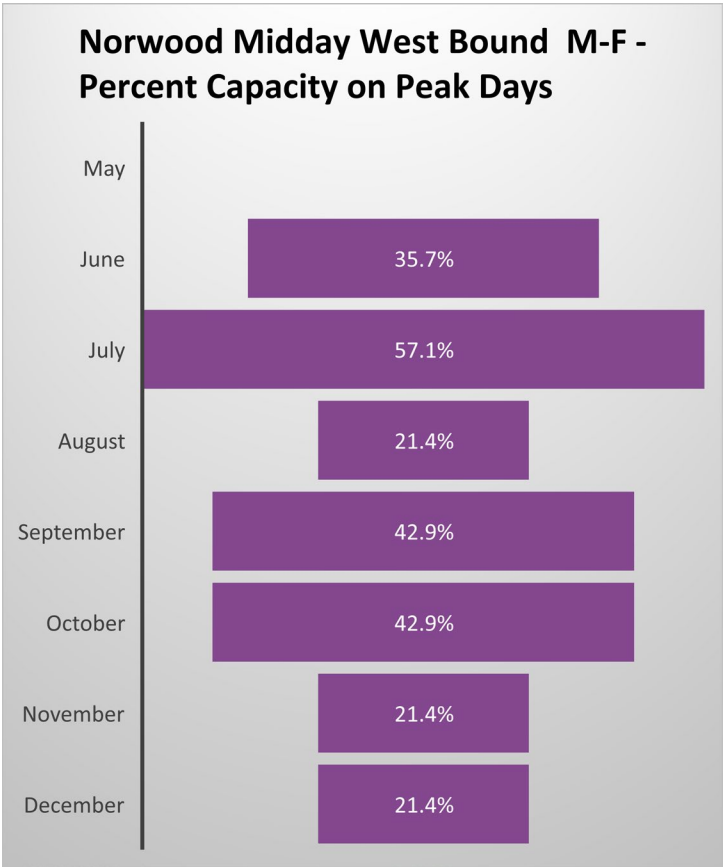
In 2022, the peak percent capacity on Norwood PM bus was 125.0%.



The Norwood Midday Route began in late May. Typically, we use a 14 passenger bus for this route. The west bound route is essentially a deadhead route that gets the bus to Norwood to pick up passengers that start work or need to go to Telluride later in the day. As this graph illustrates, ridership is low. This route include stops at Two Rivers.



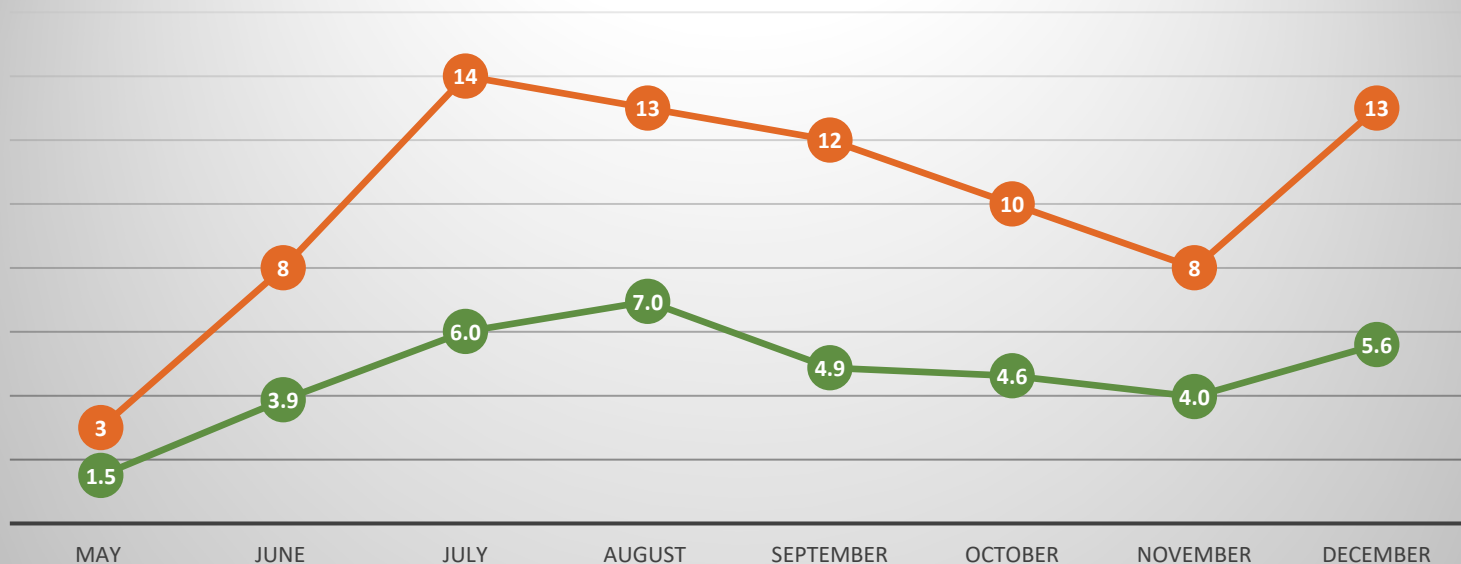
Average monthly capacity on the west bound Norwood midday bus ranged between 2.7% and 10.9%.



In 2022, the peak percent capacity that the west bound Norwood midday bus reached was 57.1%

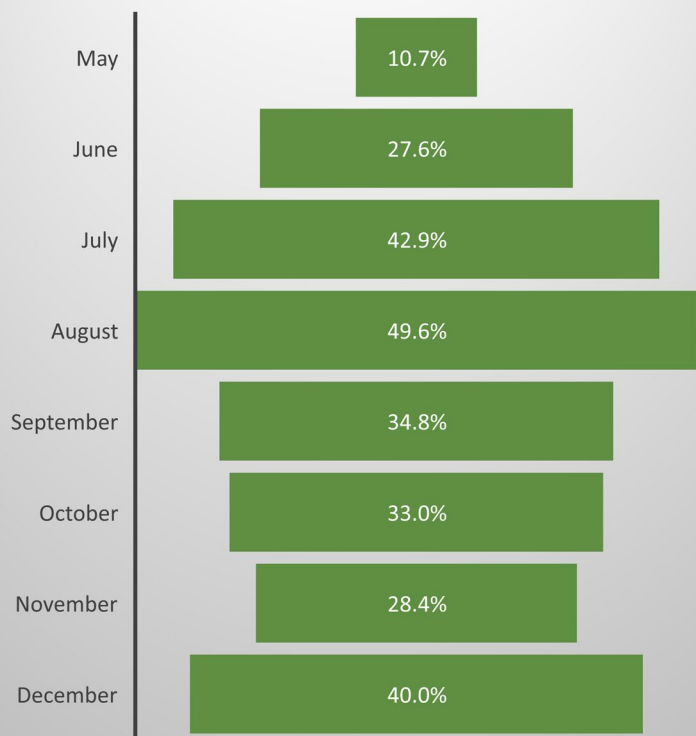


Norwood Midday East Bound M-F Average Ridership & Highest Day Ridership



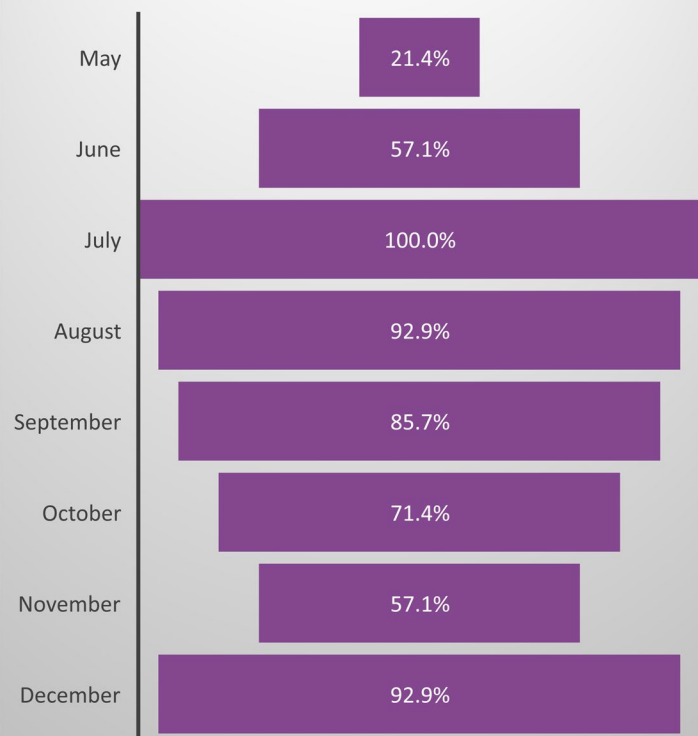
The east bound route leaves Norwood at 11:00 AM. Ridership declined from September to November, but seems to be picking back up.

Norwood Midday East Bound M-F Average Percent of Bus Capacity



Average monthly capacity on the east bound Norwood midday bus ranged between 10.7% and 49.6%.

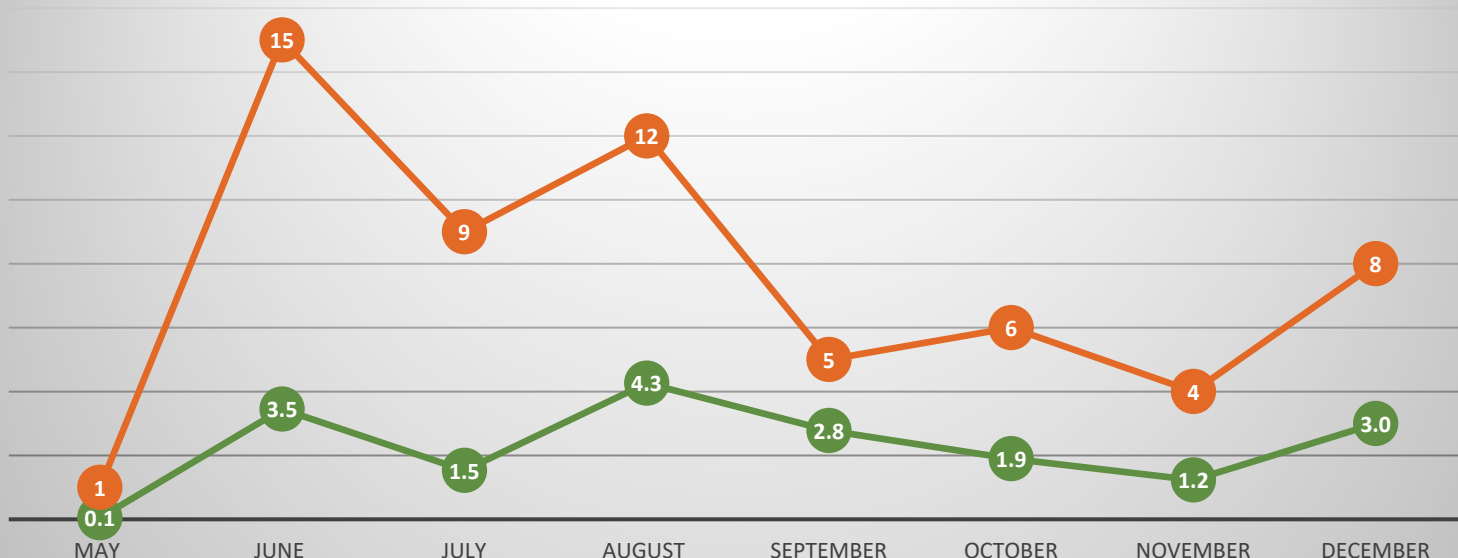
Norwood Midday East Bound M-F - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the Norwood midday east bound bus reached was 100%

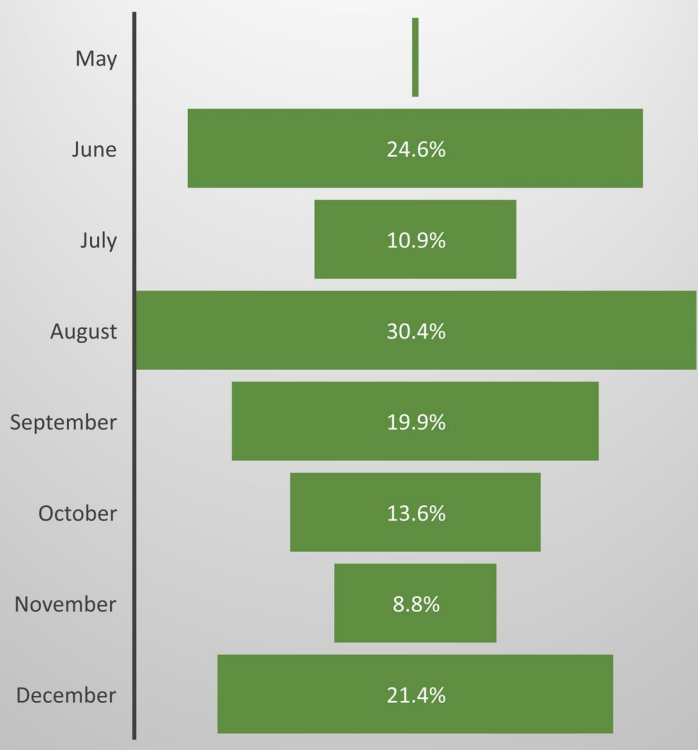


Norwood Late M-F Average Ridership & Highest Day Ridership



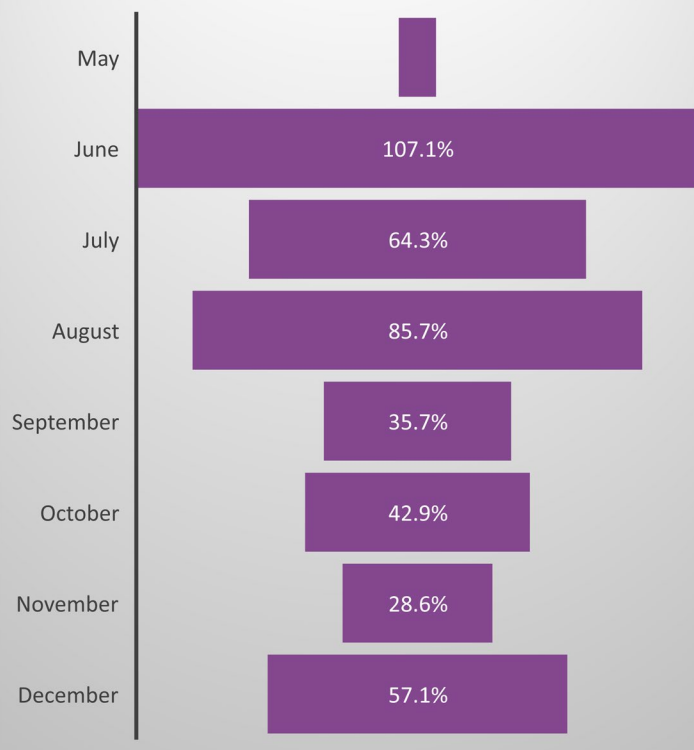
The 11:30 PM route from Norwood to Telluride also began in late May in an effort to accommodate restaurant workers. We typically use a 14 passenger bus for this route. Ridership has remained small but steady. We hope to see an upward trend as the year progresses. There was a spike in June, likely as a result of the Bluegrass Festival. This route also includes stops at Two Rivers.

Norwood Late M-F Average Percent of Bus Capacity



Average monthly capacity on the 11:30 PM Norwood bus ranged between 8.8% and 30.4%.

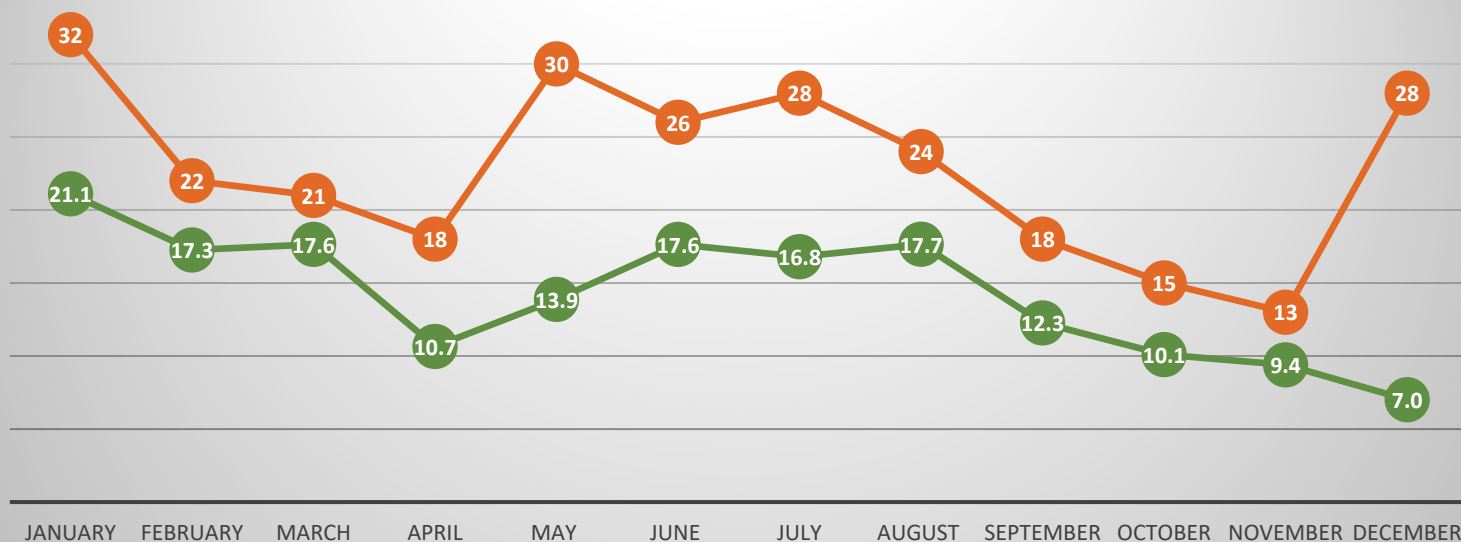
Norwood Late M-F - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the Norwood late bus reached was 107.1%

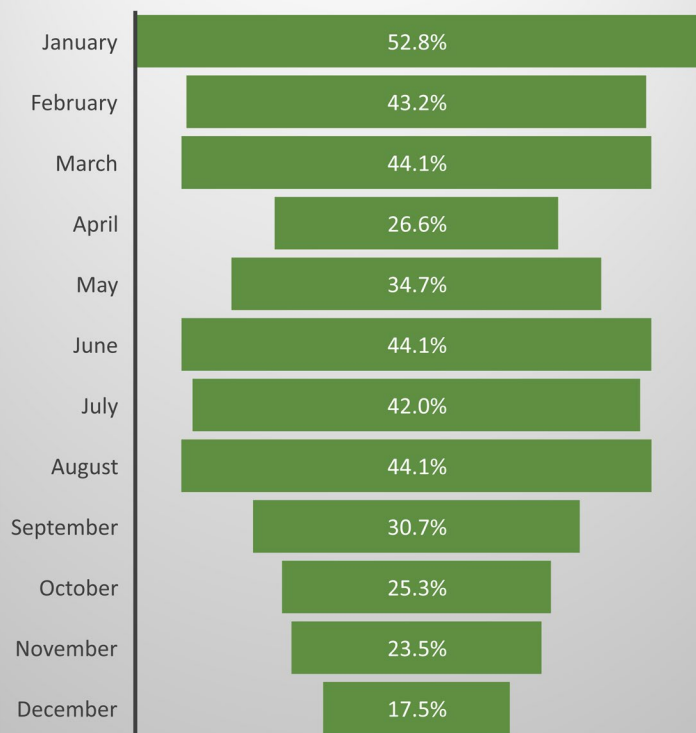


Norwood AM S-S Average Ridership & Highest Day Ridership



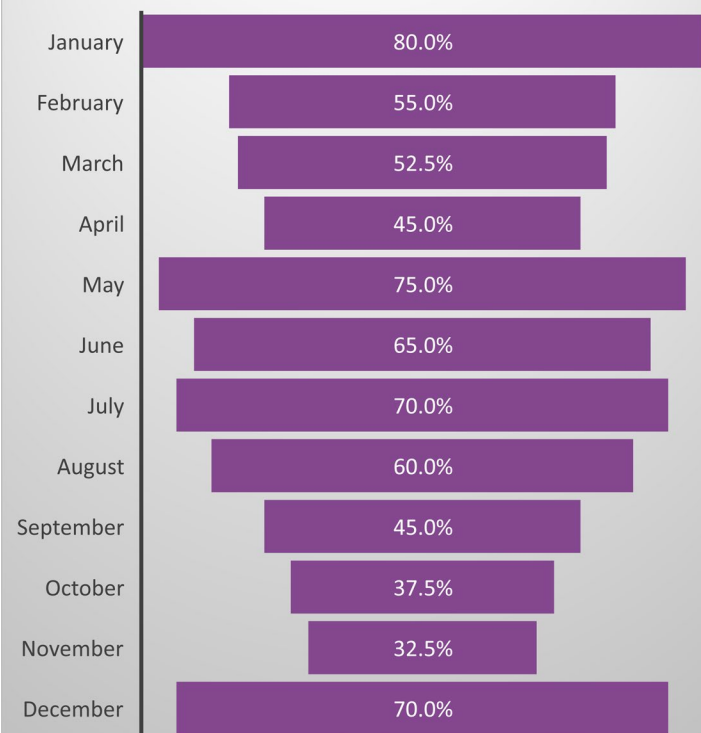
SMART runs only one bus to Telluride from Norwood and back on weekends. We use a 40 passenger bus. The Nucla bus does not run. This route has saw a decline in average ridership over the course on the year.

Norwood AM S-S Average Percent of Bus Capacity



In 2022, the average monthly capacity on the weekend Norwood AM bus ranged between 17.5% and 52.8%.

Norwood AM S-S - Percent Capacity on Peak Days

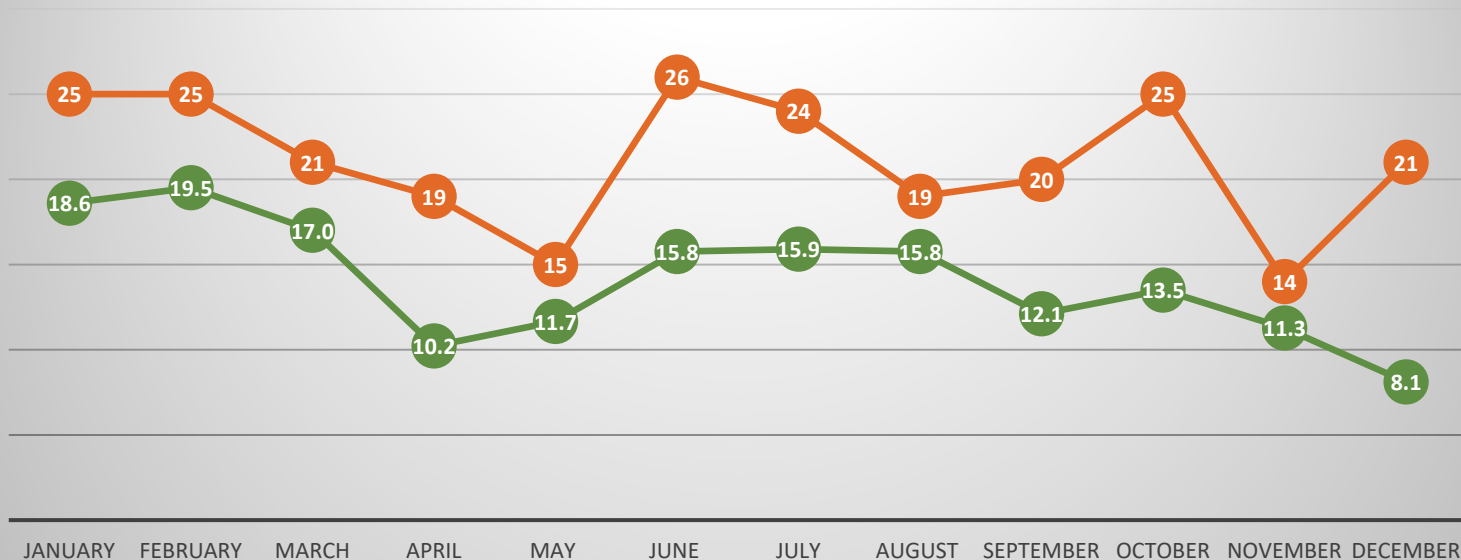


In 2022, the peak percent capacity that the Norwood AM bus reached was 107.1%



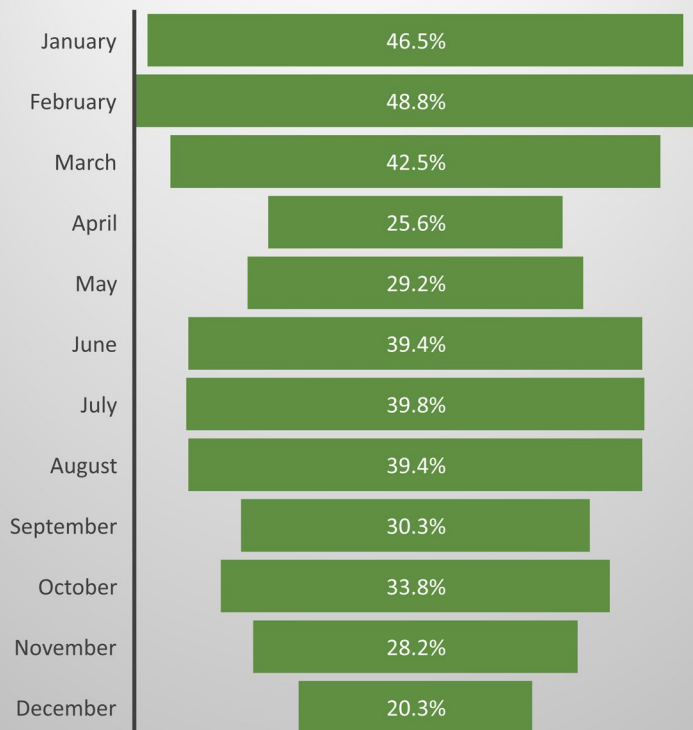
January 5th, 2023

Norwood PM S-S Average Ridership & Highest Day Ridership



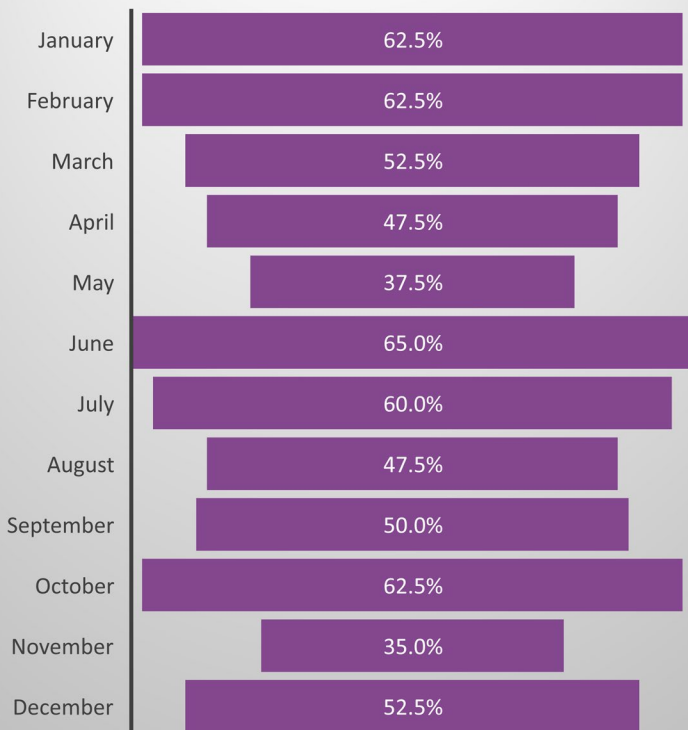
Average ridership on this bus is also declined over the course on 2022.

Norwood PM S-S Average Percent of Bus Capacity



In 2022, the average monthly capacity on the weekend Norwood PM bus ranged between 20.3% and 48.8%.

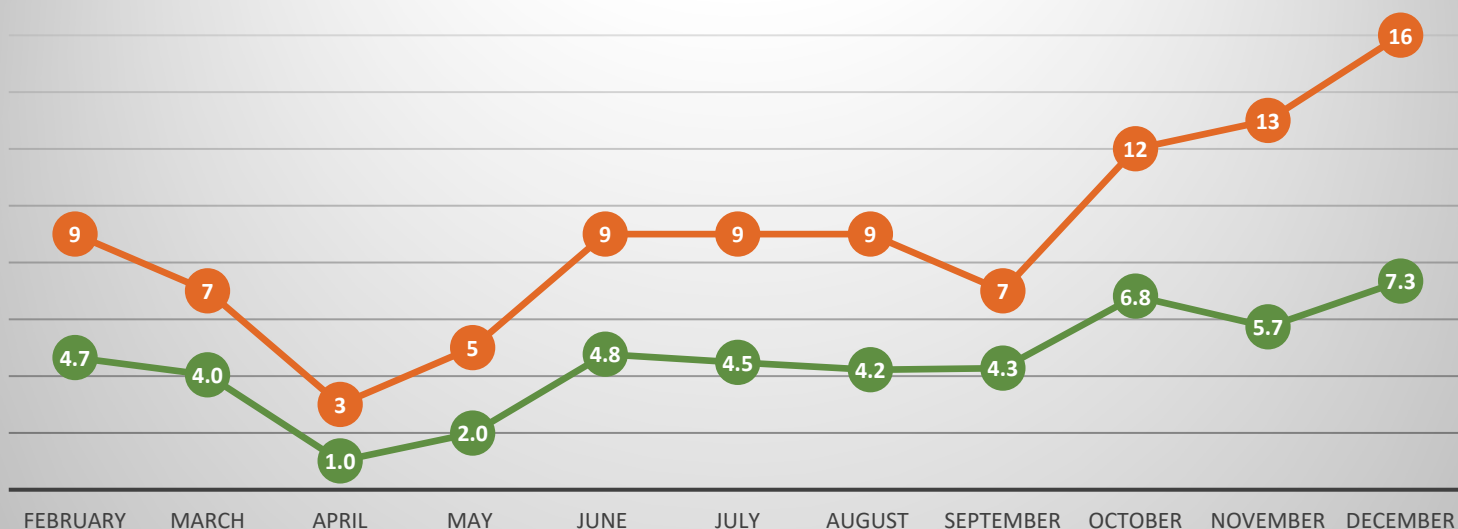
Norwood AM S-S - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the Norwood PM bus reached was 65.0%

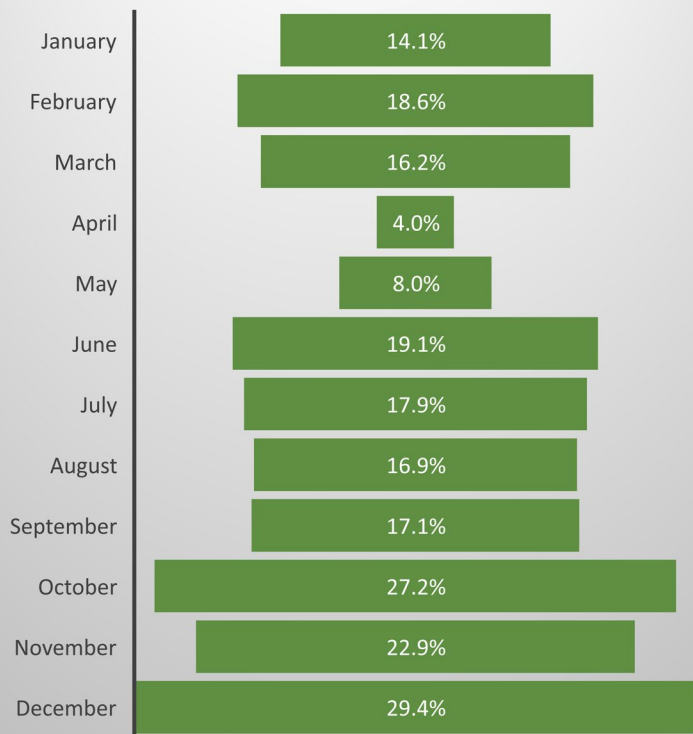


Down Valley AM M-F East Bound Average Ridership & Highest Day Ridership



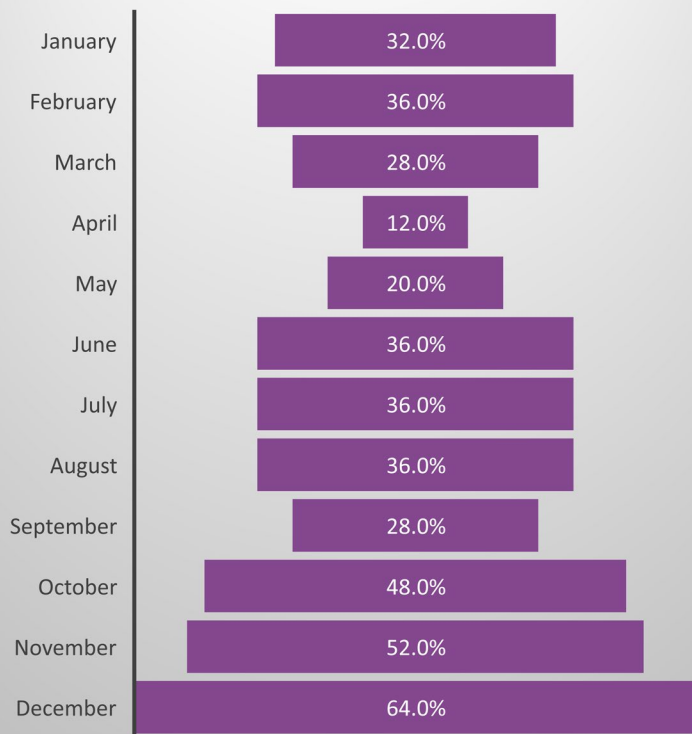
The morning Down Valley Route begins in Placerville at 7:05. The Placerville Routes are week day only routes. We typically use a 25 passenger bus for this route. All Down Valley Route include a stop at Two Rivers.

Down Valley AM M-F East Bound Average Percent of Bus Capacity



In 2022, the average monthly capacity on the first east bound Down Valley bus ranged between 4.0% and 29.4%. If vehicle inventory allows, we will be looking at using a smaller bus for this route.

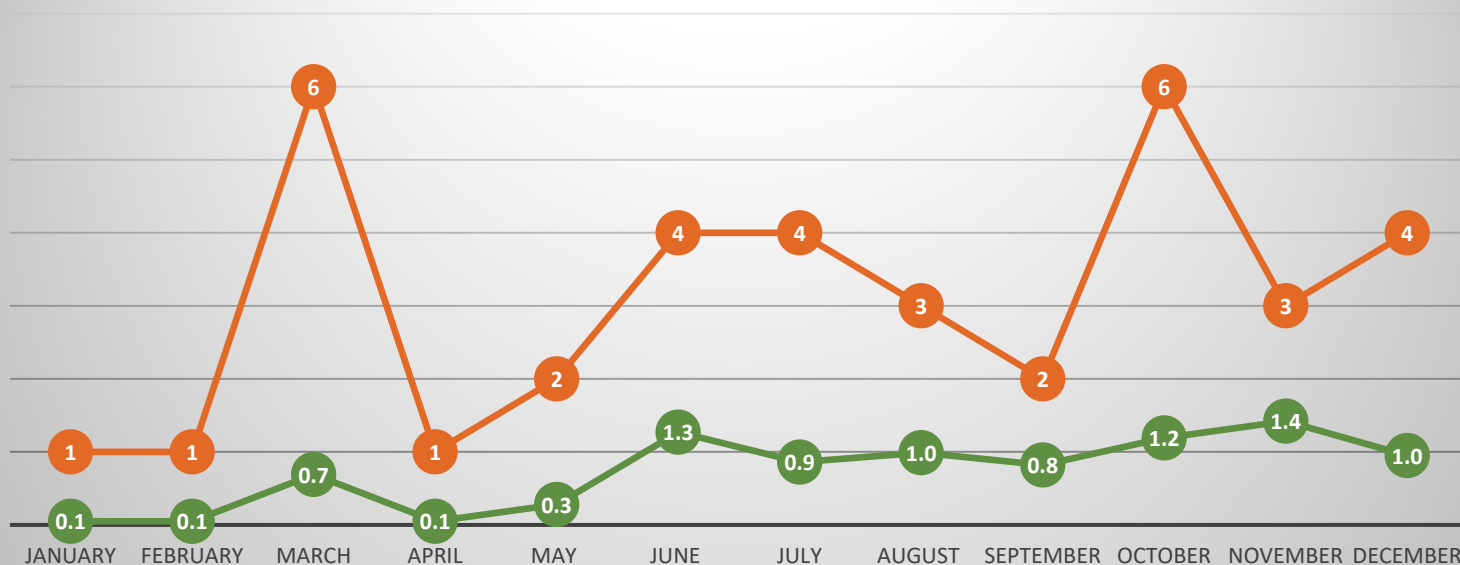
Down Valley AM M-F East Bound - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the first Down Valley morning bus reached was 64.0%

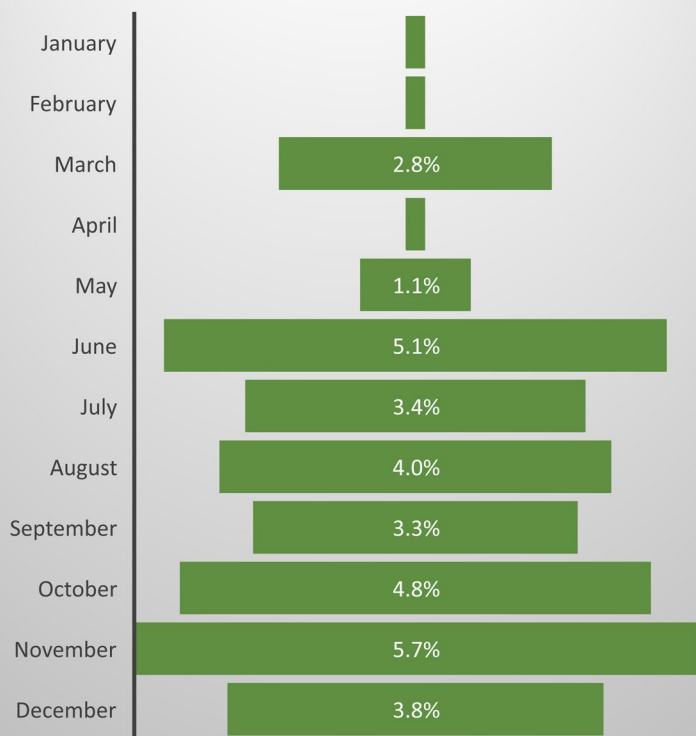


Down Valley AM M-F West Bound Average Ridership & Highest Day Ridership



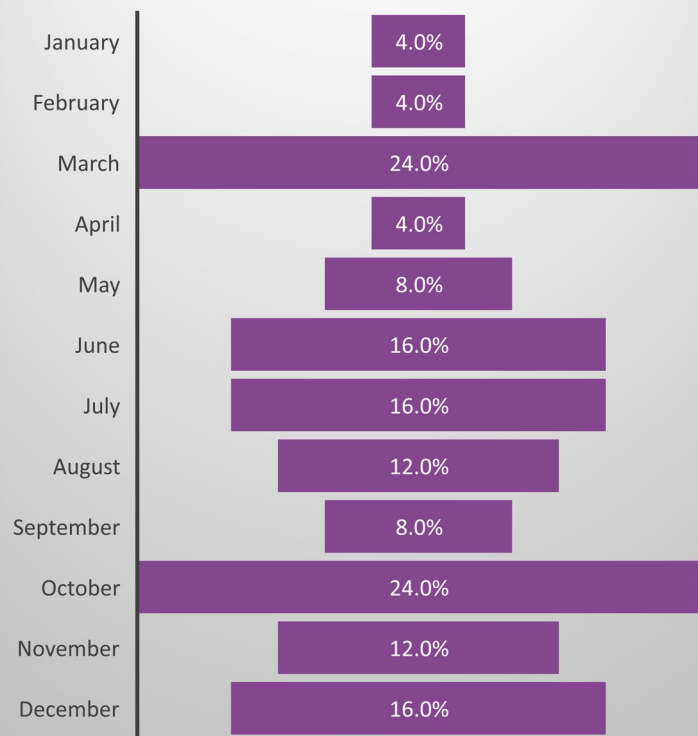
The morning west bound Down Valley Route leaves Telluride at 7:50 AM. This bus is also essentially a deadhead run to provide a later bus for folks coming to Telluride from Placerville. It does get some riders.

Down Valley AM M-F West Bound Average Percent of Bus Capacity



In 2022, the average monthly capacity on the west bound Down Valley bus ranged between 0.2% and 5.7%.

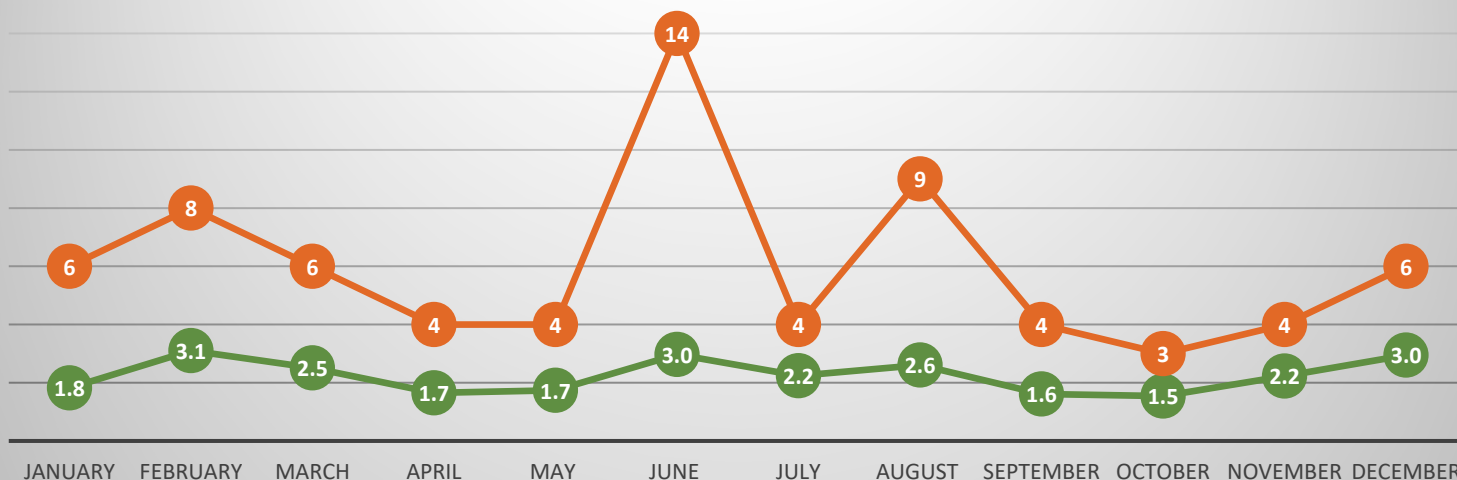
Down Valley AM M-F West Bound - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the west bound Down Valley morning bus reached was 24.0%

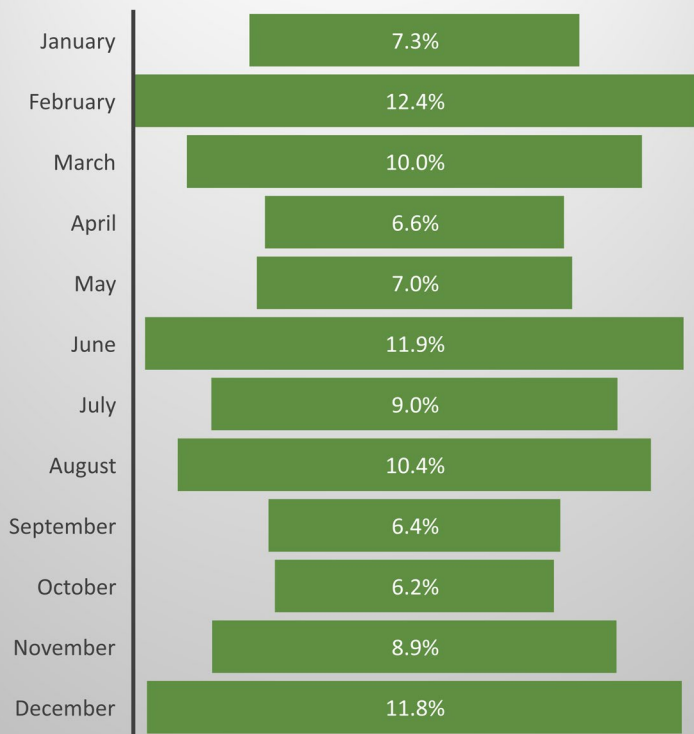


Down Valley AM M-F East Bound 2 Average Ridership & Highest Day Ridership



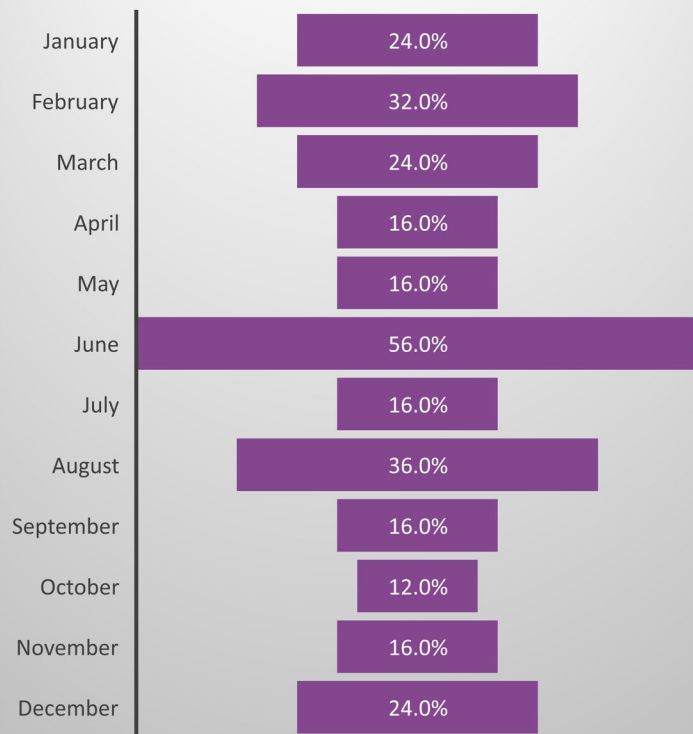
The later morning east bound Down Valley Route leaves Telluride at 8:30 AM. Ridership is not high, but it is consistent.

Down Valley AM M-F East Bound 2 Average Percent of Bus Capacity



In 2022, the average monthly capacity on the second east bound Down Valley bus ranged between 6.2% and 12.4%.

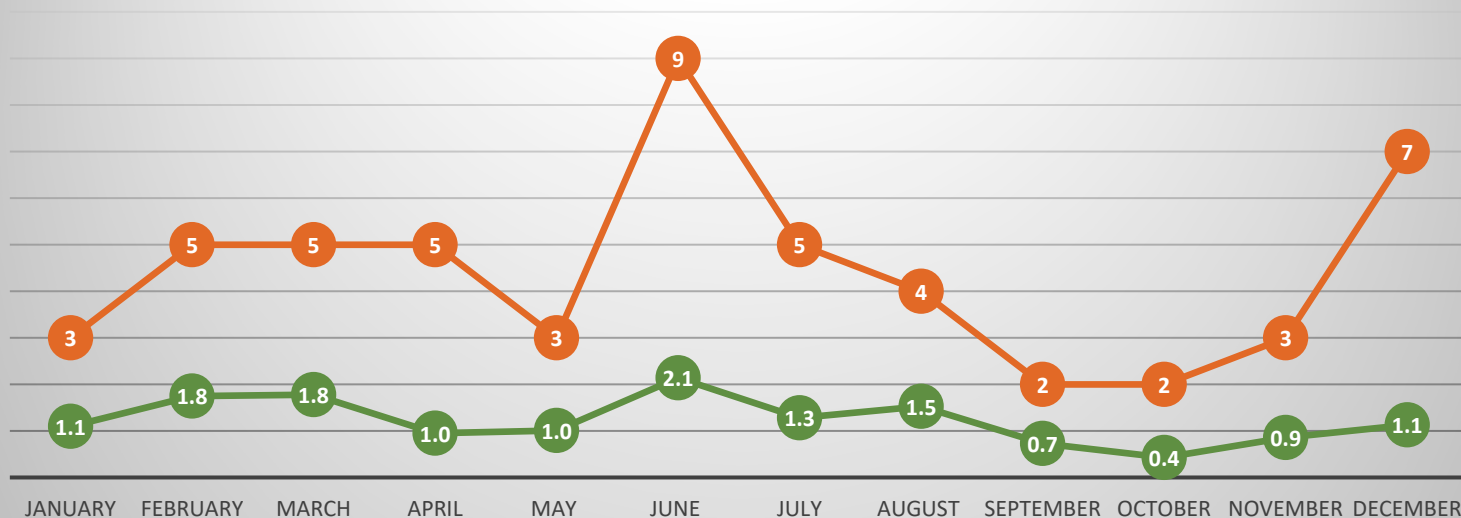
Down Valley AM M-F East Bound 2 - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the second east bound AM Down Valley morning bus reached was 56.0%

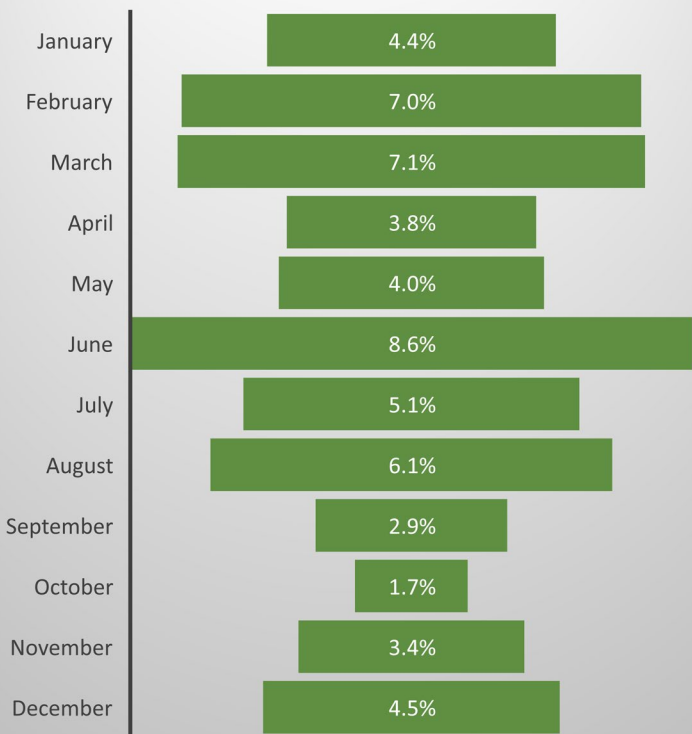


Down Valley Midday West Bound M-F Average Ridership & Highest Day Ridership



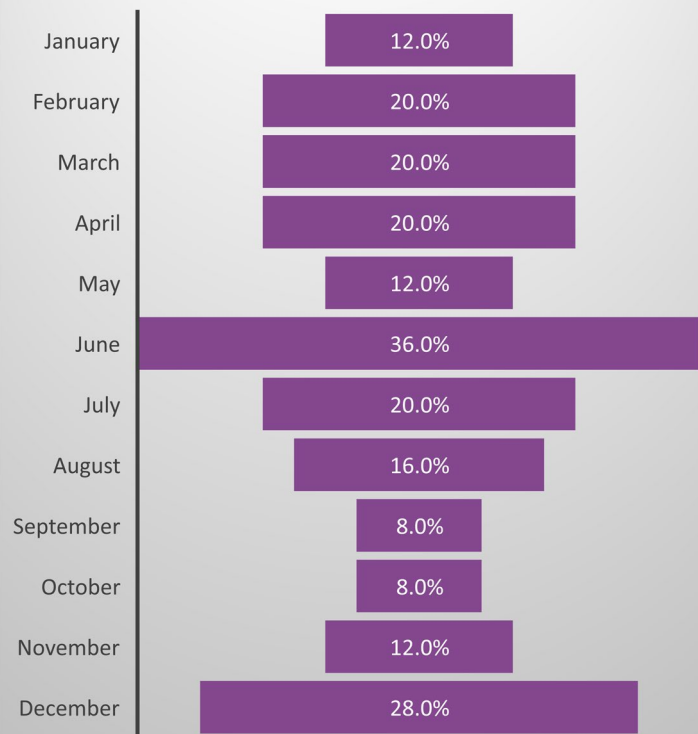
The midday west bound Down Valley Route leaves Telluride at 11:30 AM. It makes a stop at Upper Lawson Hill. This bus is typically a 25 passenger bus. We are expecting a new, smaller bus and that will enable us to operate this route more efficiently. We see a spike in June due to the Bluegrass Festival.

Down Valley Midday M-F West Bound Average Percent of Bus Capacity



In 2022, the average monthly capacity on the second east bound Down Valley bus ranged between 1.7% and 8.6%.

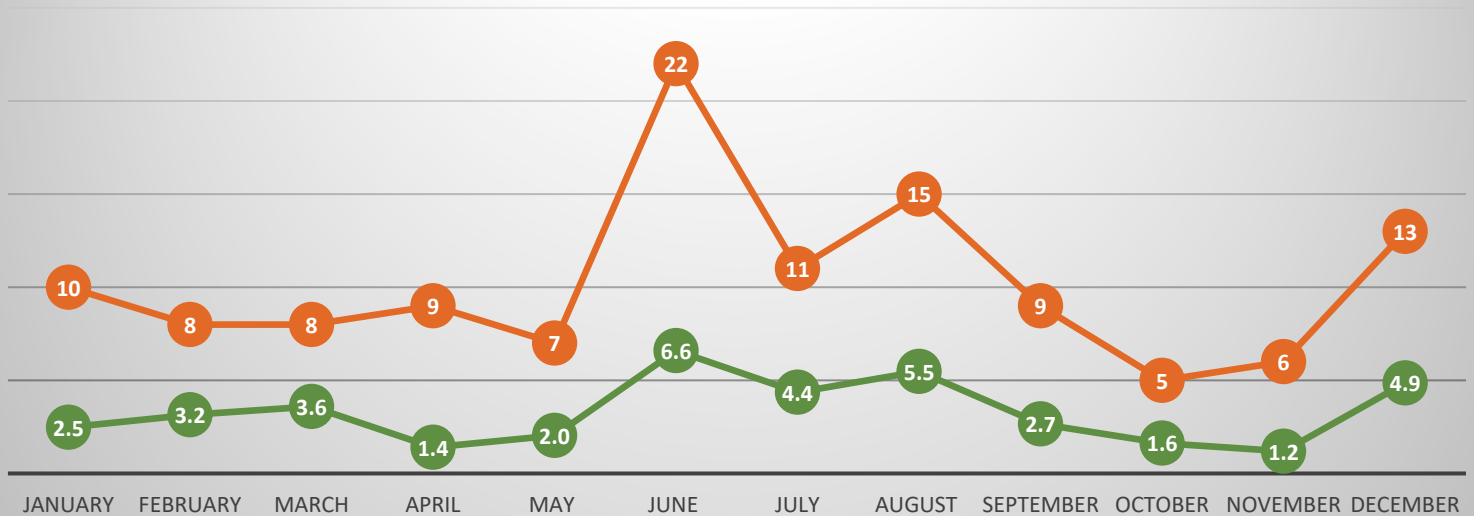
Down Valley Midday M-F West Bound - Percent Capacity on Peak Days



In 2022, the peak percent capacity that the midday west bound Down Valley morning bus reached was 36.0%

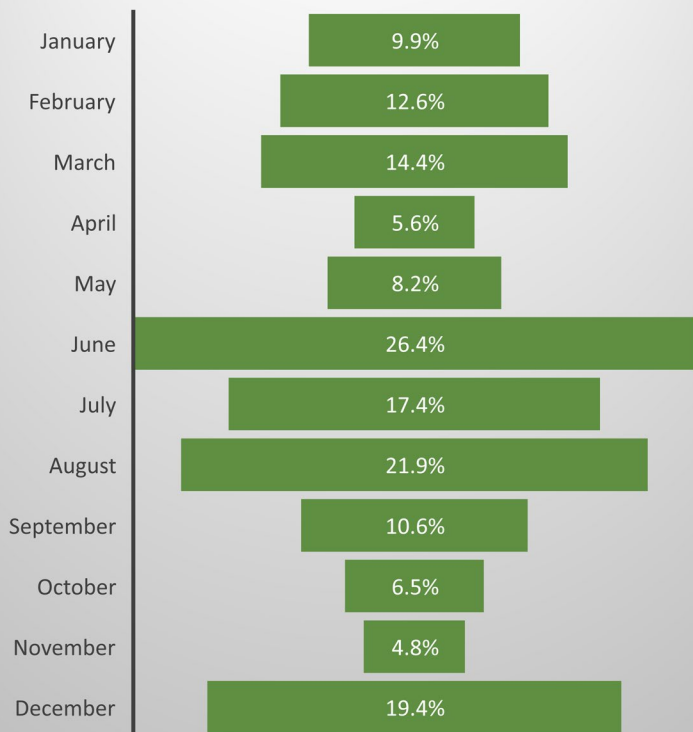


Down Valley Midday East Bound M-F Average Ridership & Highest Day Ridership



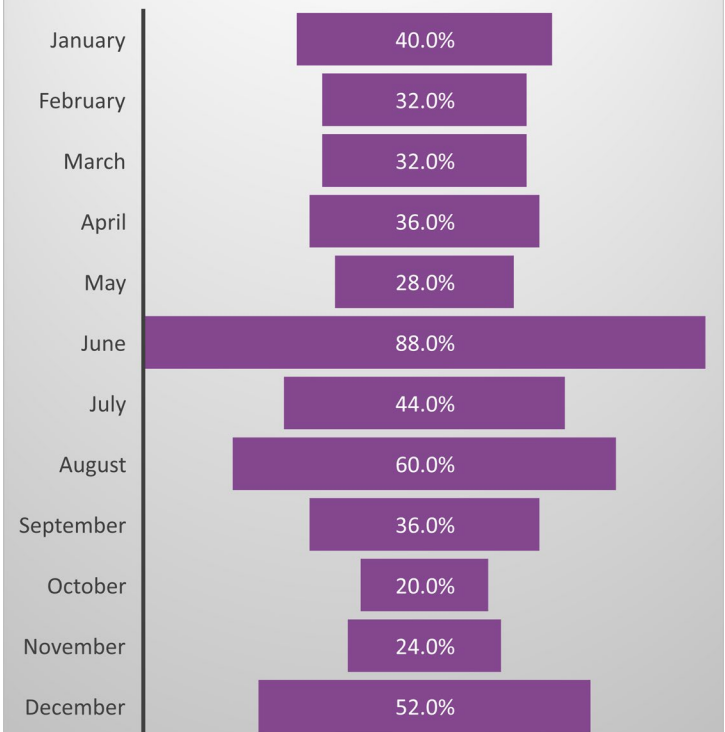
The midday east bound Down Valley Route leaves Placerville at 12:15 PM. It makes a stop at Upper Lawson Hill. This route helps to fill in the gap that occurs in the Lawson Route between 11:20 AM and 2:25 PM.

Down Valley Midday M-F East Bound Average Percent of Bus Capacity



In 2022, the average monthly capacity on the second east bound Down Valley bus ranged between 5.6% and 24.4%.

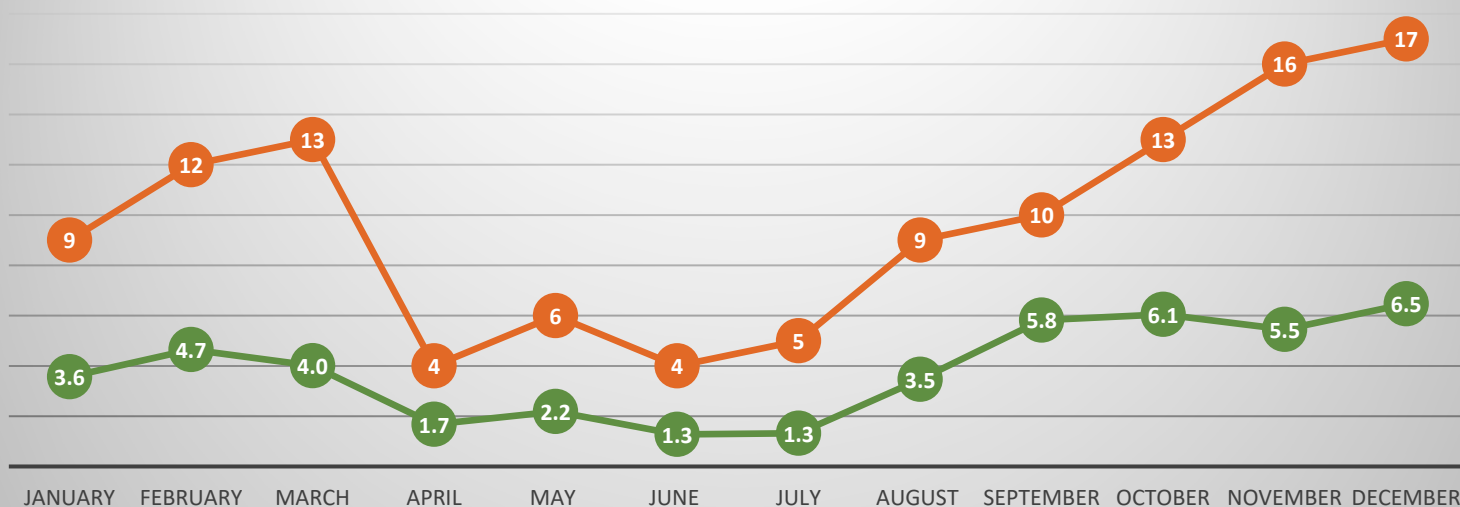
Down Valley Midday M-F East Bound Highest Day Capacity



In 2022, the peak percent capacity that the midday east bound Down Valley morning bus reached was 88.0%

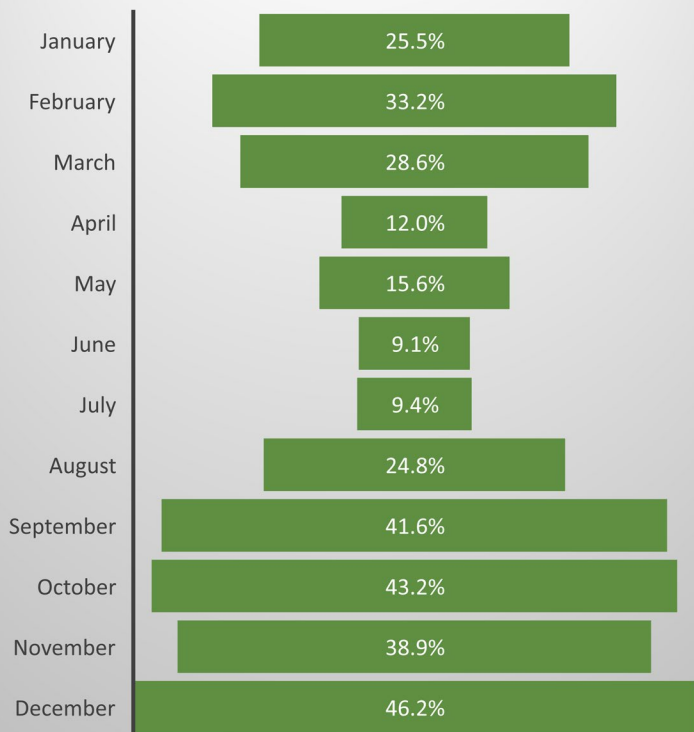


Down Valley PM M-F West Bound Average Ridership & Highest Day Ridership



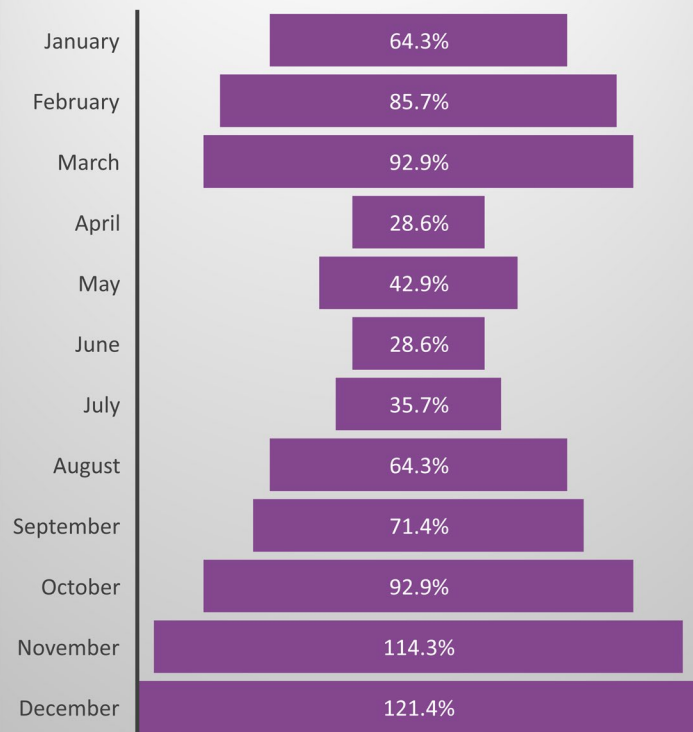
The evening west bound Down Valley Route leaves Telluride at 5:10 PM. This bus is typically a 14 passenger bus. Like the other Down Valley buses, this route runs on weekdays only.

Down Valley PM M-F West Bound Average Percent of Bus Capacity



In 2022, the average monthly capacity on the first evening west bound Down Valley bus ranged between 9.1% and 46.2%.

Down Valley AM M-F West Bound - Percent Capacity on Peak Days

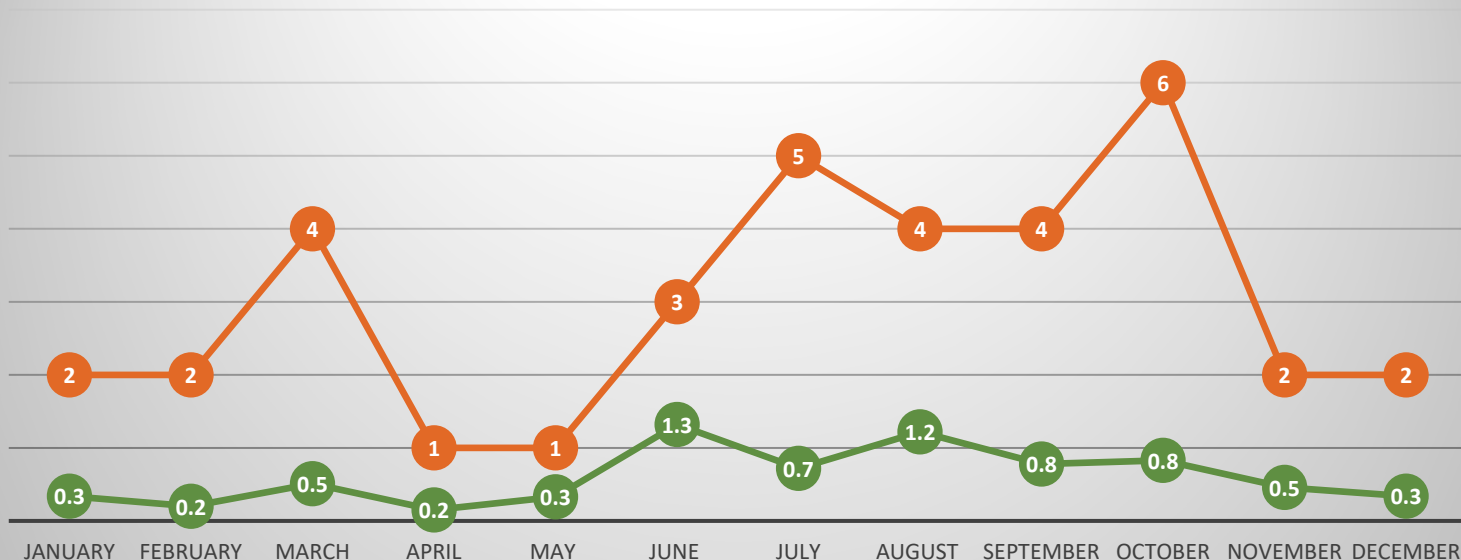


In 2022, the peak percent capacity that the first west bound Down Valley morning bus reached was 121%



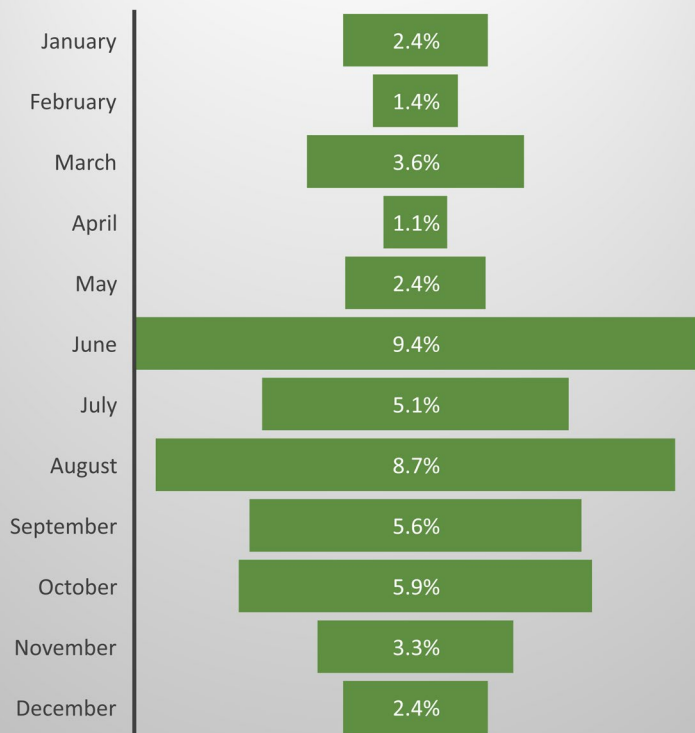
January 5th, 2023

Down Valley PM M-F East Bound Average Ridership & Highest Day Ridership



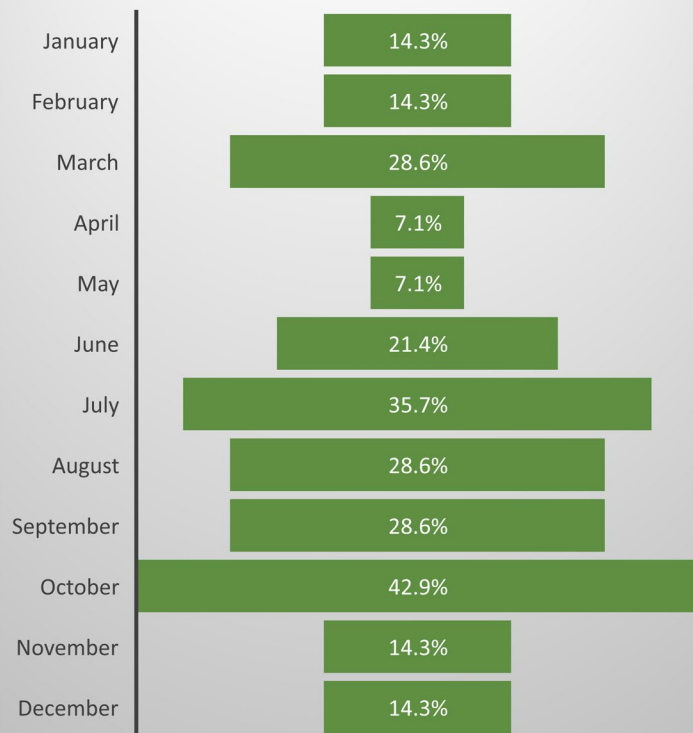
The evening east bound Down Valley Route leaves Placerville at 5:50 PM. This bus is typically a 14 passenger bus.

Down Valley PM M-F East Bound Average Percent of Bus Capacity



In 2022, the average monthly capacity on the evening east bound Down Valley bus ranged between 1.1% and 9.4%.

Down Valley AM M-F East Bound Highest Day Capacity

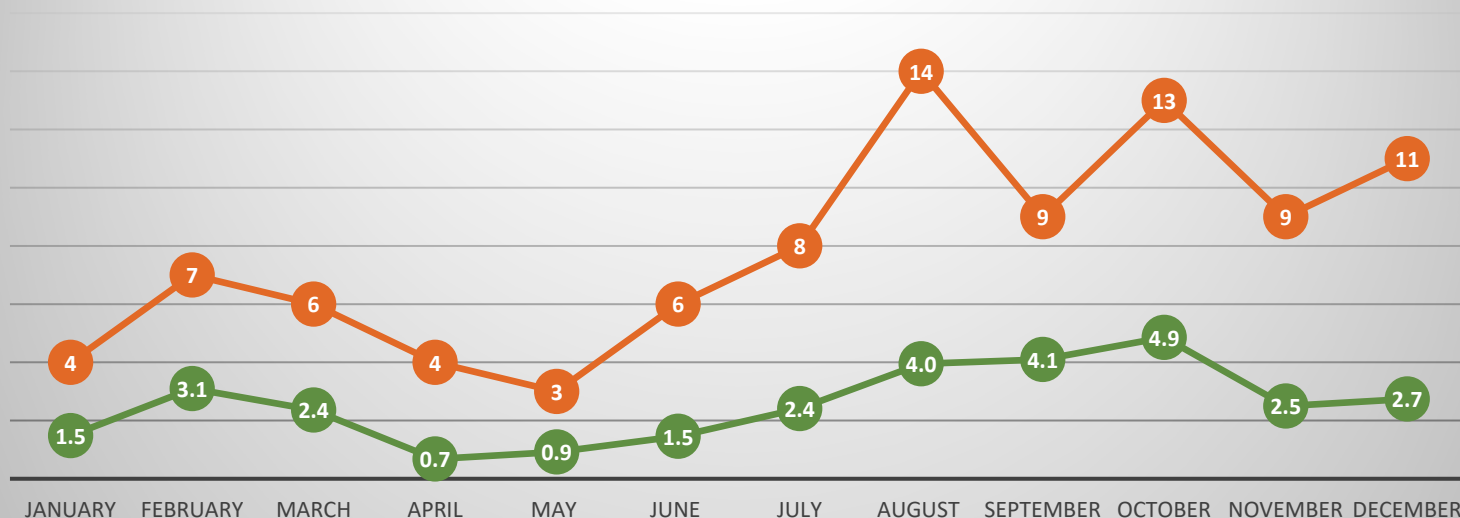


In 2022, the peak percent capacity that the evening east bound Down Valley bus reached was 42.9%



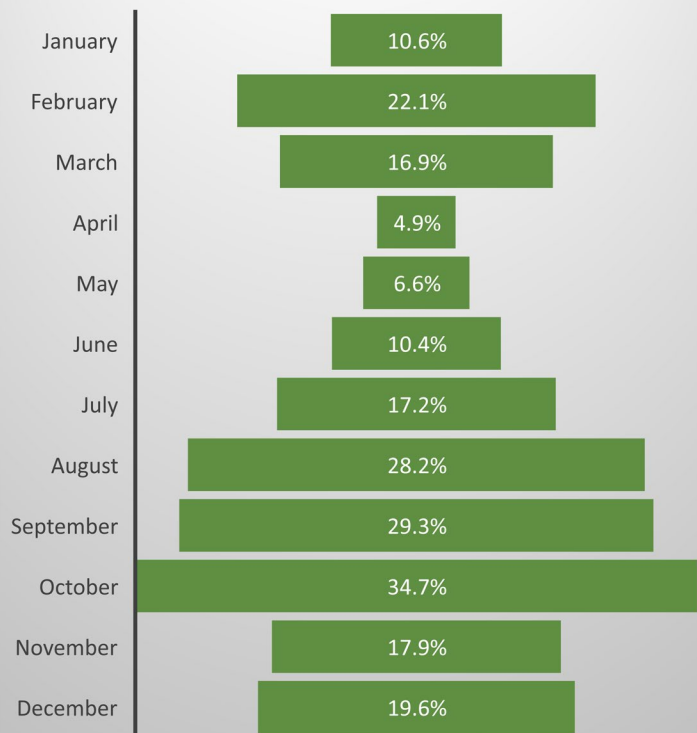
January 5th, 2023

Down Valley PM M-F West 2 Bound Average Ridership & Highest Day Ridership



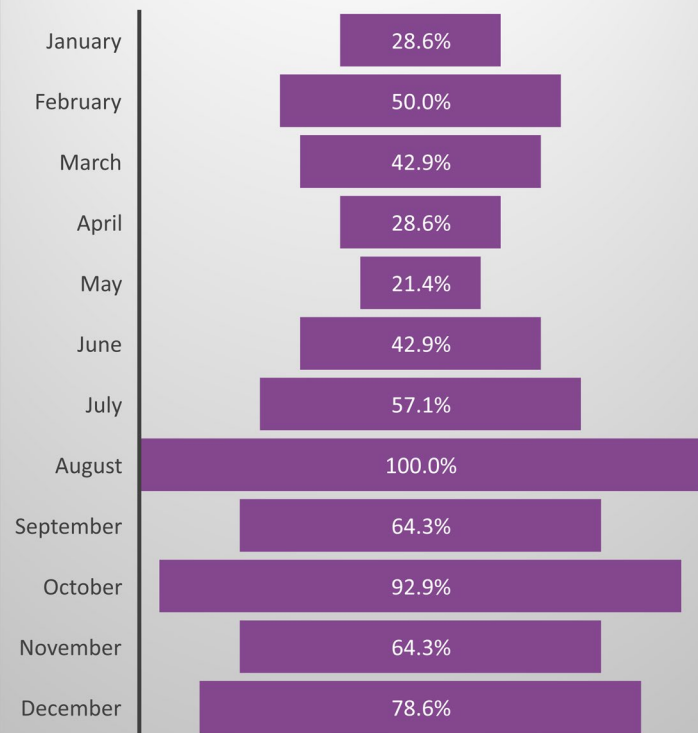
The second west bound Down Valley Route leaves Telluride at 6:30 PM.

Down Valley PM M-F West Bound 2 Average Percent of Bus Capacity



In 2022, the average monthly capacity on the second evening west bound Down Valley bus ranged between 4.9% and 34.7%.

Down Valley AM M-F West Bound 2 Highest Day Capacity

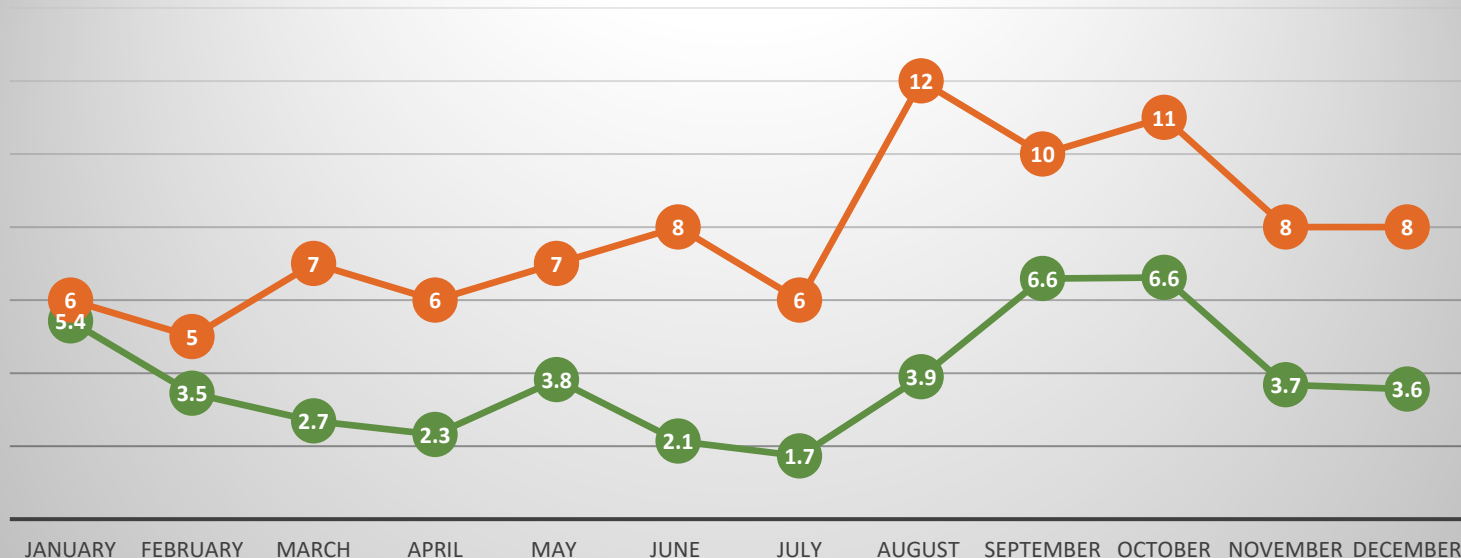


In 2022, the peak percent capacity that the second evening west bound Down Valley bus reached was 100%.



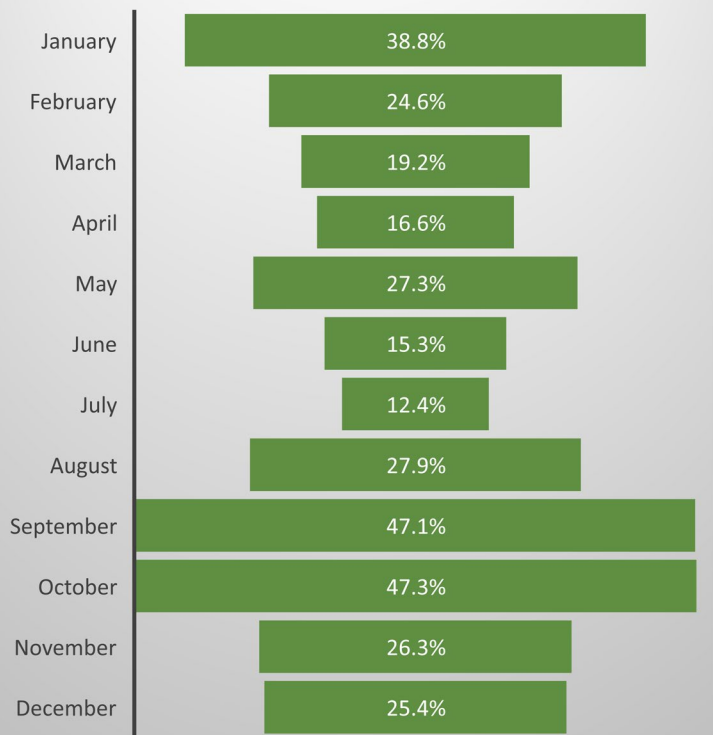
January 5th, 2023

Rico AM M-F Average Ridership & Highest Day Ridership



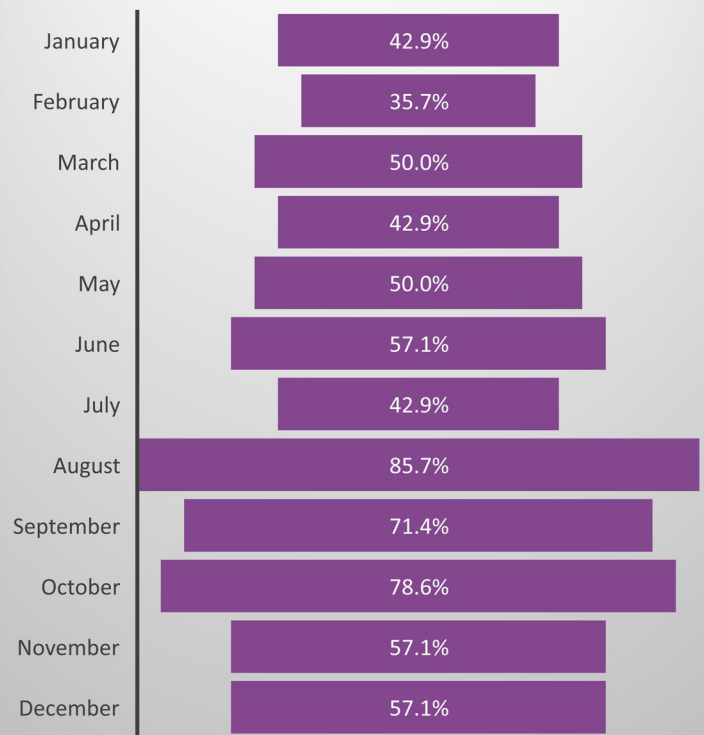
The Rico bus goes to Telluride from Rico and back to Rico twice a day of weekdays. This bus is typically a 14 passenger bus.

Rico AM M-F Average Percent of Bus Capacity



In 2022, the average monthly capacity on the Rico AM bus ranged between 12.4% and 47.3%.

Rico AM M-F Highest Day Capacity

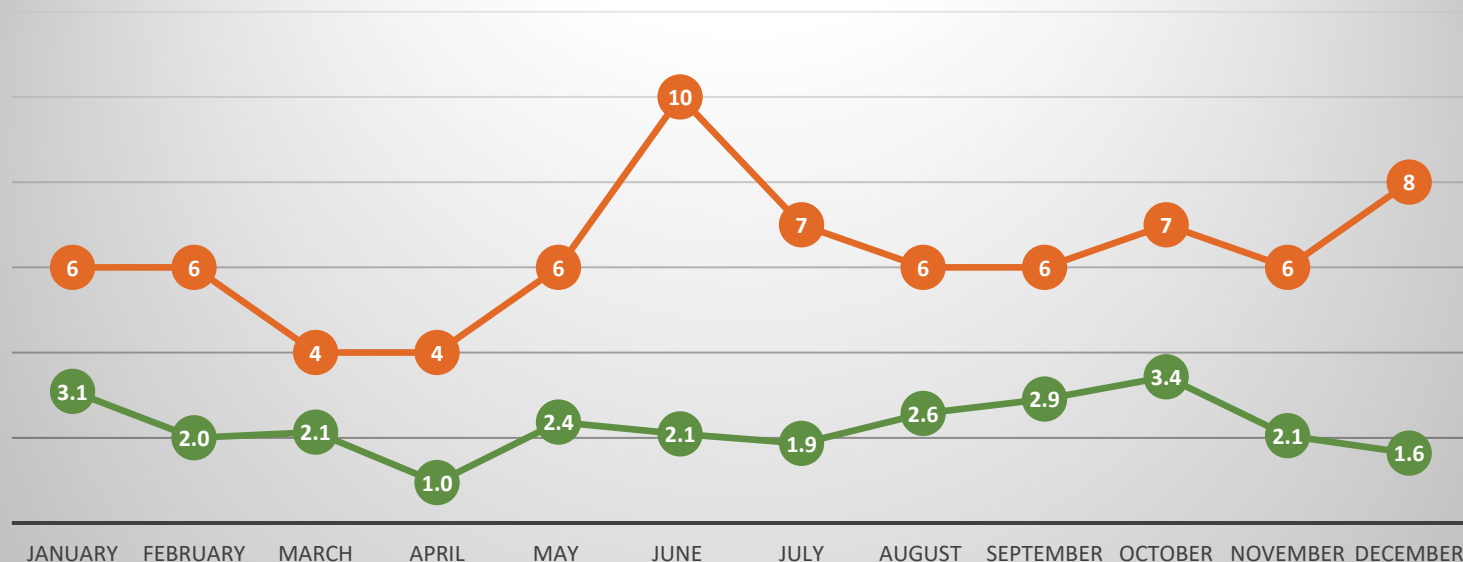


In 2022, the peak percent capacity that the Rico AM reached was 85.7%



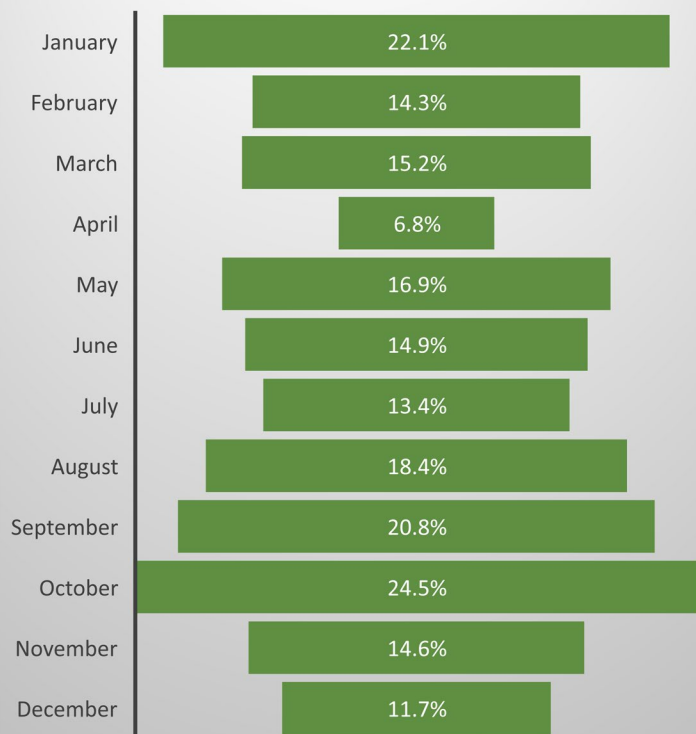
January 5th, 2023

Rico PM M-F Average Ridership & Highest Day Ridership



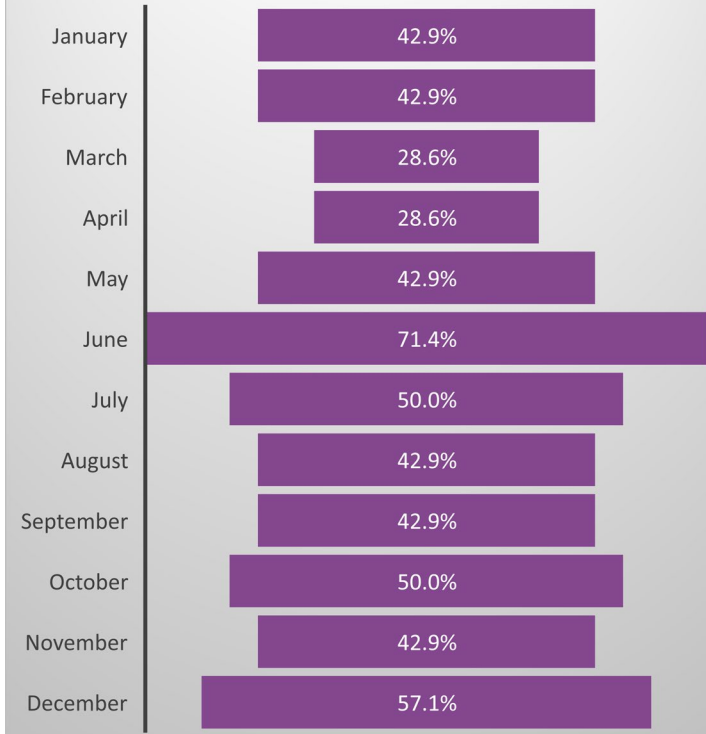
The evening Rico bus leaves Telluride at 5:15 PM.

Rico AM M-F Average Percent of Bus Capacity



In 2022, the average monthly capacity on the Rico PM bus ranged between 6.8% and 24.5%.

Rico AM M-F Highest Day Capacity

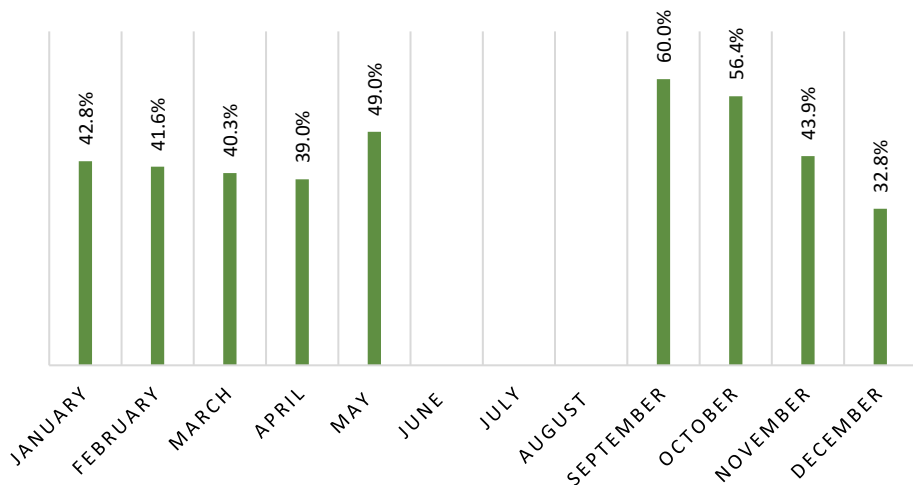


In 2022, the peak percent capacity that the Rico PM reached was 71.4%



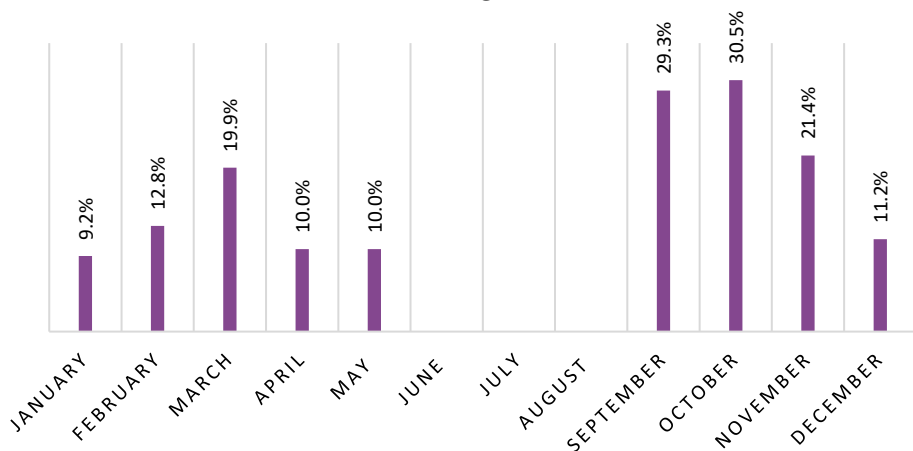
January 5th, 2023

NORWOOD ROUTE STUDENT RIDERSHIP



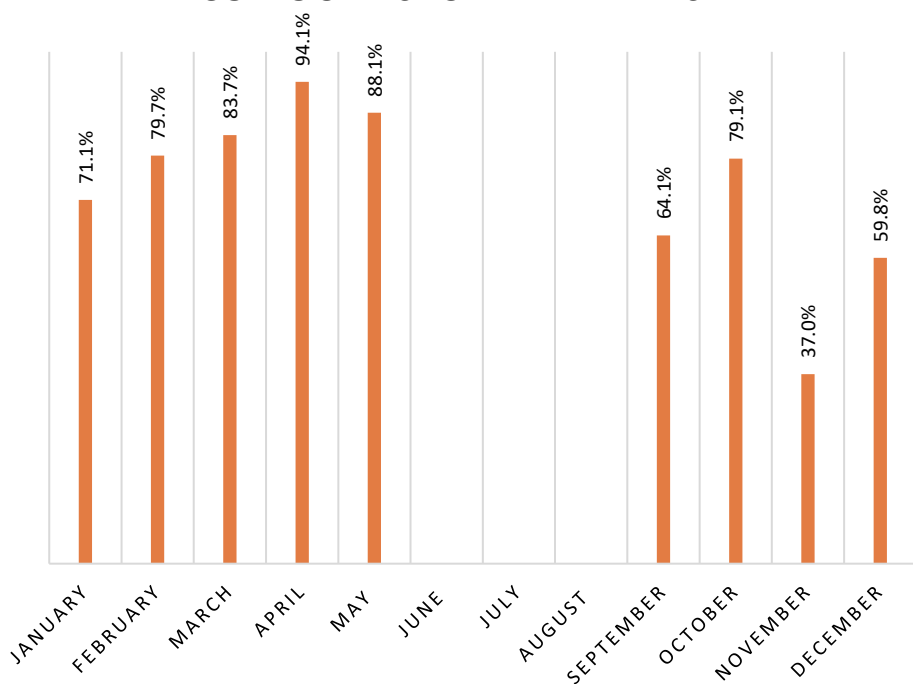
In 2022, the Norwood student ridership ranged between 32.8% and 60.0%.

DOWN VALLEY ROUTE STUDENT RIDERSHIP



In 2022, the Down Valley student ridership ranged between 9.2% and 30.5%.

RICO ROUTE STUDENT RIDERSHIP



In 2022, the Rico student ridership ranged between 37.0% and 94.1%.

SMART Executive Director report – January 12th, 2023

Grants: We spent down and closed out our remaining CRRSSAA and FY22 5311 awards. We will start spending down our FY235311 award with January expenses.

Audit RFP: RFP for outside audit services is “on the street” with a due date of 1/20/23. The RFP was sent directly to 10 different firms. A few questions have come in so far from potential proposers, which is a good sign that there is interest in the work.

Gondola Subcommittee/rebuild project – resolution of intent: I will be bringing a resolution of intent forward for the Boards consideration at the February meeting. This resolution will be designed to formalize what SMART is agreeing to vis a vis the gondola project. Items you can expect to see in the resolution include agreement to be the project sponsor for grant-making purposes, agreement to pursue long-term financing for the ongoing operations/maintenance of the asset post the current funding agreement, etc. There will also be a recommendation to put together a much more detailed IGA between all of the project partners that articulates roles/responsibilities moving forward.

Property tax/RTA statute: In a recent meeting with bond counsel it was pointed out that there is some potentially problematic language in the existing statute that governs IGA’s regarding a sunset on the ability of RTA’s to impose mill levy’s. I am working with CASTA, the CASTA lobbyist, and representatives from RFTA to come up with a proposed legislative fix to this to be considered in this legislative session. It is likely that we will also propose to raise the statutory sales tax limit of 1% that RTA’s can collect to 1.5%. I will keep the Board informed as to how this develops.

Rolling stock update: *Large bus order* – still waiting on final pricing from the vendor, but we are getting close to placing the order. *Vehicle transfer from Continuum of Colorado:* we are waiting for the title work to be processed on CDOTs end but will likely take ownership of this vehicle by the end of January.