

RESOLUTION 2022-05

Resolution of the Triview Metropolitan District Concerning IGA with Town of Monument, Sales Tax Sharing, and Law Enforcement Tax

WHEREAS, the Triview Metropolitan District ("Triview") was formed in 1985 as a quasi-municipal corporation and political subdivision of the State of Colorado, to provide water, sanitation, storm drainage, streets, transportation improvements, and park and recreation improvements, for the benefit of the District's residents and property owners; and,

WHEREAS, an Intergovernmental Agreement (as amended, the "IGA") was entered into by the Town of Monument ("Town") and Triview on September 22, 1987. As part of that agreement, the Town agreed to share tax revenue with Triview in recognition of the fact that Triview would be providing the services listed to the Town's residents within Triview's boundaries; and,

WHEREAS, on January 11, 1999, the Town approved Emergency Ordinance No. 1-99, which amended the IGA between Triview and the Town, providing for the tax sharing and financing arrangement in use by the Town and Triview today. Section 7.3(c) of the Ordinance states:

Commencing on the date of recordation of the first final plat within the boundaries of the District, as compensation for the performance by [the] District of the services set forth in Subparagraph 7.3(a) through (6) inclusive, the following percentage of those revenue sources set forth in Subparagraph (a) shall be paid to the District. The provisions of this Subsection shall be effective until such time as they are amended by agreement of the parties. Said percentages of said revenue sources are as follows:

Ad Valorem Taxes: 50%
Specific Ownership: 50%
Sales Taxes: 50%
Use Taxes: 50%

As a result, the amended IGA provides that 50% of all the tax revenue generated by the Town in each of these four categories, including sales tax, is to be shared with Triview; and,

WHEREAS, notwithstanding this longstanding contractual obligation, in 2021 the Town referred Ballot Issue 2F to its citizens, which increased the Town's sales tax from 3% to 3.5%, with the stated purpose of funding the Monument Police Department. Triview's board of directors is a proponent of public safety and wants to see that the Police Department is properly funded; however, the language of Ballot Issue 2F attempts to bypass the Town's contractual obligations under the IGA. It states, in relevant part:

Shall the Town of Monument, Colorado, sales taxes be increased \$1,650,000 in 2022 by the imposition of an additional sales tax of .50% (increasing the Town's sales tax from 3% to 3.50%), commencing January 1, 2022; and thereafter **shall the Town of Monument be entitled to exclusively collect, retain, and spend the full revenues from such tax increase without contractual, statutory or constitutional limitation or condition, including local intergovernmental agreements . . .**

WHEREAS, for an extended period of time prior to the November 2021 election, which included Ballot Issue 2F, Triview's staff attempted to discuss with Town staff the District's concerns with the wording of Ballot Issue 2F, specifically that the IGA unequivocally provides that Triview will receive 50% of all sales tax revenue collected within Triview's boundaries, asserting that the Town cannot bypass or nullify an contractual obligations through an election; and,

WHEREAS, Triview proposed an amendment to the IGA to specifically allow the Town to retain Triview's share of the sales tax increase subject of Ballot Issue 2F provided such funds be spent by the Town only to fund the Police Department beyond the Town's historical budgeting for law enforcement, as represented to the public in advance of the Ballot Issue 2F election. While the Town's initial response was to so amend the IGA, after preliminary discussions on the language of the IGA Amendment, Triview's continued attempts to engage the Town on this issue were met with silence, aside from assurances that the Town would address the situation after the election; and,

WHEREAS, at the November 2021 election, Ballot Issue 2F was approved by the Monument voters, and the additional sales tax revenue provided therein began to be collected by the Town for use solely by the Town, despite express provisions to the contrary remaining in the IGA; and,

WHEREAS, the purpose of Triview's proposed amendment to the IGA was: 1) to specifically allow the Town to retain Triview's share of the sales tax revenue generated by Ballot Issue 2F; 2) to document public statements of the Town Manager and Police Chief in support Ballot Issue 2F, that the Town would not decrease its funding of law enforcement from historical sources, but rather supplement such historical funding with Ballot Issue 2F revenues; and, 3) ensure that Town actions in collecting and utilizing the

revenue collected pursuant to Ballot Issue 2F would not be violative of the Town's clear obligations under the IGA. Triview believed this proposed solution to be simple, fair, and in light of the clear language of the IGA, to have prevented the Town's ongoing breach of the IGA; and,

WHEREAS, the District was recently provided with a copy of Town of Monument Resolution 65-2021, enacted by the Town Board of Trustees on or about NOV. 15, 2021, which by its terms encouraged future Boards to follow the intent of the Ballot Issue 2F, utilizing the funds generated thereby to supplement the police department's historical funding from the Town's general operating funds. While the District applauds the intent of this Resolution, such resolution does not bind future Boards, while IGA's and approved ballot language does. Triview continues to believe that an amendment to the IGA, as proposed, would cure the Town's ongoing breach and provide a binding contractual obligation for future Boards, ensuring the Town will continue to honor its commitment to law enforcement; and,

WHEREAS, it is Triview's understanding that the Town is pursuing in 2022 an additional sales tax increase for parks and recreation purposes. Triview has serious concerns that this ballot initiative, too, may seek to avoid the Town's contractual obligations under the IGA as concerns tax sharing with Triview, despite Triview being tasked with parks and recreation services within the boundaries of the District. Triview is unwilling to allow the setting of precedent that the Town may violate its contractual obligations under the IGA simply by seeking voter approval of such a breach.

NOW THEREFORE, the following Resolution is made by the Triview Board of Directors in regards to Triview and the Town's respective obligations under the IGA, specifically as concerns tax sharing:

Upon discussion and unanimous affirmative vote of the District's Board of Director's during public session of the Board meeting held May 19, 2022, following statutorily-sufficient provision of notice of such discussion item, and following provision of a draft of this Resolution to the Town of Monument's staff, it is so resolved that:

In order to rectify conflict between the Town's obligations under the IGA and the voter-approved Ballot Issue 2F, and to ensure continued goodwill and cooperation between Triview and the Town, Triview's Staff is directed to continue to diligently pursue agreement from the Town to establish an appropriate amendment to the IGA, allowing the Town to legally use Triview's share of funds generated from the sales tax increase approved by Ballot Issue 2F in accordance with the Town's publicly stated goals and intentions. It is further resolved that:


Such an amendment to the IGA will act to cure the Town's ongoing breach of the express terms of the IGA, while also respecting the voice of the voters in approving Ballot

Issue 2F, and avoid potentially costly legal disputes between governmental entities that should be cooperating to improve the lives of the Town's residents and taxpayers.

Dated this 23rd day of June, 2022.



Mark Melville, President
Triview Metropolitan District



Marco Florito, Vice President
Triview Metropolitan District