

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF  
MOUNTAIN VILLAGE, COLORADO,  
APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN  
OF MOUNTAIN VILLAGE AND THE SAN MIGUEL COUNTY CLERK AND  
RECORDER REGARDING RESPONSIBILITIES FOR CONDUCTING THE EVEN-  
YEAR GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016**

**NO. 2016-0818-09**

**RECITALS:**

**WHEREAS**, pursuant to title 43, article 4, part 6, Colorado Revised Statutes, as amended (the Colorado “Regional Transportation Authority Law”), Colorado counties and municipalities are authorized to establish, by contract, regional transportation authorities, which are authorized to finance, construct, operate and maintain regional transportation systems;

**WHEREAS**, over the past twelve (12) months the Town of Mountain Village, Colorado has been meeting with other elected officials representing the Town of Telluride, Colorado and San Miguel County, Colorado with regard to the possible formation of the San Miguel Authority for Regional Transportation (“SMART”) for the purpose of financing, constructing, operating and maintaining regional transportation systems;

**WHEREAS**, pursuant to the Regional Transportation Authority Law, C.R.S. § 43-4-603(3) “No municipality, county, or special district shall enter into a contract establishing an authority without holding at least two public hearings thereon in addition to other requirements imposed by law for public notice”;

**WHEREAS**, the Town of Mountain Village held a public hearing on June 16, 2016, properly noticed as required by the Regional Transportation Authority Law, to receive public comment on the possible formation of SMART, subject to voter approval;

**WHEREAS**, on July 21, 2016 the Town of Mountain Village held its second required public hearing, as required by the Regional Transportation Authority Law, to receive public comment on the possible formation of SMART, subject to voter approval;

**WHEREAS**, the Town of Mountain Village approved the San Miguel Authority for Regional Transportation Intergovernmental Agreement at its July 21, 2016 regular meeting, expressly conditioned on electorate approval during the November 8, 2016 General Election as required by C.R.S. § 43-4-603(4), which states that “no contract establishing a [regional transit] authority...shall take effect unless first submitted to a vote of the registered electors residing within the boundaries of the proposed authority”;

**WHEREAS**, such approval of the SMART IGA is subject to approval by both a majority of the registered electors residing within the Town of Mountain Village voting on the

establishment of SMART and a majority of the resident and nonresident registered electors of the Town of Mountain Village voting on funding of SMART at the November 8, 2016 general election; and

**WHEREAS**, such funding would authorize SMART to impose both a sales tax of 0.25% on taxable sales and an ad valorem property tax mill levy of 0.75 mills on taxable real and personal property located within the Town of Mountain Village, Town of Telluride and that portion of unincorporated San Miguel County located within the proposed boundaries of SMART, respectively.

**WHEREAS**, on November 8, 2016 during the scheduled General Election it is anticipated that the Towns of Mountain Village and Telluride along with San Miguel County will submit to their electorate the question of the formation of SMART along with tax increase questions, pursuant to the terms of Article X, Section 20 of the Colorado Constitution; and

**WHEREAS**, a general election is scheduled for Tuesday, November 8, 2016, to be administered by the San Miguel County Clerk & Recorder;

**WHEREAS**, the Town of Mountain Village does not have a regular election scheduled for November 8, 2016;

**WHEREAS**, the Town of Mountain Village desires to participate in the November 8, 2016 election in order for its registered electors to vote on the formation and funding of SMART;

**WHEREAS**, pursuant to the Regional Transportation Authority Law, the San Miguel County Clerk will coordinate an election to consider the formation and funding of SMART; and


**WHEREAS**, the Town of Mountain Village desires to enter into an intergovernmental agreement with the San Miguel County Clerk & Recorder for the purpose of delineating responsibilities regarding the November 8, 2016 coordinated election;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MOUNTAIN VILLAGE, COLORADO AS FOLLOWS:**

1. The Recitals of this Resolution, as set forth above, are hereby incorporated into this Resolution as findings of fact and conclusions of law of the Town Council.
2. The Town Council approves the Intergovernmental Agreement between the Town of Mountain Village and the San Miguel County Clerk and Recorder Regarding Responsibilities for Conducting the Even-Year General Election to Be Held on Tuesday, November, 8, 2016, a copy of which is attach hereto and incorporated herein as Exhibit A.

**ADOPTED AND APPROVED** by the Town Council of the Town of Mountain Village, Colorado, at a regular meeting held on the 18th day of August, 2016.

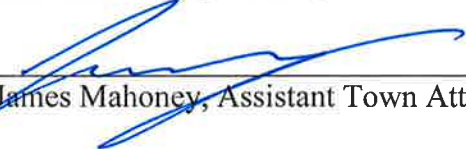
TOWN OF MOUNTAIN VILLAGE, COLORADO, a  
home rule municipality

By:   
Dan Jansen, Mayor

ATTEST:

By:   
Jackie Kennefick, Town Clerk

APPROVED AS TO FORM:

By:   
James Mahoney, Assistant Town Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF MOUNTAIN VILLAGE AND THE SAN MIGUEL COUNTY CLERK AND RECORDER REGARDING RESPONSIBILITIES FOR CONDUCTING THE EVEN-YEAR GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016**

**THIS INTERGOVERNMENTAL AGREEMENT** (the "Agreement") is made and entered into this 30th day of August, 2016 by and between the **Town of Mountain Village**; 455 Mountain Village Blvd., Suite A, Mountain Village, CO 81435, and the **San Miguel County Clerk And Recorder**, P.O. Box 548, 305 W. Colorado Avenue, Telluride, CO 81435 (the "**Clerk**"), pursuant to § 1-7-116(2), C.R.S., regarding the administration of the even-year general election to be held on November 8, 2014 (the "Election").

**RECITALS**

WHEREAS, the **Clerk** and the **Town of Mountain Village** desire to enter into this Agreement regarding the administration of their respective duties in connection with the Election.

WHEREAS, pursuant to § 1-7-116, C.R.S., the **Town of Mountain Village** may contract with the **Clerk** to perform all or part of the duties associated with conducting the Election, including, but not limited to the requirements of the Uniform Election Code of 1992, Title 1, Articles 1 to 13, C.R.S. (the "Code") and the Election Rules of the Colorado Secretary of State (the "Rules").

WHEREAS, in addition to the requirements of the Code and the Rules, Article X, Section 20 of the Colorado Constitution, commonly known as the Taxpayer's Bill of Rights or "TABOR," imposes additional requirements on the **Clerk** and **Town of Mountain Village**, including, but not limited to, the production of a mailed notice of the ballot issues to be determined for the **Town of Mountain Village** that are subject to the requirements of TABOR (the "TABOR Notice").

WHEREAS, the **Town of Mountain Village** and the **Clerk** have determined that it is in the best interests of the **Town of Mountain Village** to agree to the scheduling and conduct of the Election as a Coordinated Election, pursuant to the terms and conditions of this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the promises and obligations contained herein, the sufficiency of which is acknowledged, the **Clerk** and the **Town of Mountain Village** hereby agree as follows:

**A. Purpose and General Matters**

1. **Purpose**: The purpose of this Agreement is to set forth the tasks to be completed by the **Clerk** and by the **Town of Mountain Village** to conduct the Election and to establish and pro-rate the costs thereof.

2. **Coordinated Election Official**: The Election may involve more than one political subdivision with overlapping boundaries, and the **Clerk** shall serve as the "Coordinated Election

- d. Two summaries, up to 500 words each, one for and one against the proposal, of written comments filed with the Designated Election Official by 45 days before the Election (on or before Friday, September 23, 2016) in a format consistent with TABOR § 3(b).

The **Town of Mountain Village** shall be solely responsible for the preparation, accuracy and language of the TABOR Notice. The **Clerk** shall in no manner be responsible for the **Town of Mountain Village** compliance with the requirements of TABOR, nor shall the **Clerk** in any manner be responsible for the language contained in the **Town of Mountain Village** TABOR Notice. The **Town of Mountain Village** shall be solely responsible for calculating and providing to the **Clerk** all fiscal information necessary to comply with TABOR and the **Clerk** shall in no way be responsible for the accuracy of the fiscal information, which shall be placed on the TABOR Notice in the form provided by the **Town of Mountain Village**. As with the “reasonable draft” ballot contents referred to in Ballot Preparation above, the **Town of Mountain Village** will endeavor to provide a reasonable draft of its TABOR Notice earlier than the deadline to assist in drafting the combine TABOR Notice Package for all coordinating entities.

3. Election Day: If requested by the **Clerk**, (1) provide a **Town of Mountain Village** representative to attend and observe any ballot testing or counting prior to the Election; and/or (2) provide support for the Election by telephone or in-person.

4. Canvass of Votes: At the **Town of Mountain Village’s** option, appoint a representative to participate on the board of canvassers and provide the name of the representative to the **Clerk** on or before October 24, 2016.

### **C. Duties of the Clerk**

The **Clerk** shall perform all acts required of the **Clerk** by the Code, the Rules, TABOR, and all other applicable law, including, but not limited to:

Voter Registration: Supervise, administer and provide the necessary facilities and forms for voter registration under State of Colorado Uniform Election Code 1992 and Colorado Secretary of State Rules. The **Town of Mountain Village Designated Election Official** shall provide the voter registration lists, including full mailing addresses and status, required by Section E.3. a. and b., below to the **Clerk** by Tuesday, October 11, 2016. The **Designated Election Official** shall ensure that nonresident property owners who are registered to vote in the Town of Mountain Village, as more particularly described in Section E.3.b. below, are the property owners of record as of October 10, 2016. The **Clerk** shall be responsible for determining that such voters continue to maintain their ownership of such property as of the date of the election.

1. Voter Service and Polling Centers: Provide facilities and information for early voting pursuant to the relevant provisions of the Code and the Rules and be responsible for all aspects thereof.

2. Staff: Appoint and train all election judges, deputy clerks, and other staff required to adequately serve the number of electors registered to vote at the Election.

3. Election Supplies: Provide all necessary equipment, forms and personnel to conduct the Election.

4. Ballot Preparation: Layout the text of the ballot in a format that complies with the Code and the Rules, and, upon the request of the **Town of Mountain Village**, provide the ballot printing layouts and text to the **Town of Mountain Village** for proofreading.

5. TABOR Compliance: Combine the text of the TABOR Notice provided by the **Town of Mountain Village** with the TABOR Notices supplied by all other jurisdictions to produce a "TABOR Notice Package," in compliance with the applicable provisions of Colo. Const. Art. X Section 20 (3) Election Provisions, and mail the TABOR Notice Package at least thirty days prior to the Election (on or before Friday, October 7, 2016) and in accordance with all other applicable TABOR provisions. The TABOR Notice compiled by the **Clerk** will be provided to households eligible to vote under Colorado's Uniform Election Code of 1992. The TABOR Notice appropriate to **Town of Mountain Village** households voting under the provisions of Section E.3. a. and b. below will be prepared and distributed by the **Town of Mountain Village DEO**.

6. Mail Ballot/Election Day: Conduct and oversee the conduct of the Election as an All Mail Delivery of Ballots Election pursuant to the Code and the Rules.

7. Tabulation of Ballots: Conduct and oversee the process of counting the ballots and provide the **Town of Mountain Village** with an unofficial abstract of votes upon completion of counting the ballots.

8. Certification of Results: Appoint, instruct, and otherwise oversee a board of canvassers pursuant to the Code and the Rules. Complete canvassing no later than Friday, November 25, 2016 and certify the results of the Election within the time required by the Code and the Rules and provide the **Town of Mountain Village** with a copy of all Election statements and certificates created pursuant to the Code and the Rules.

9. Storage and Records: Store all election records and any other required materials pursuant to the Code and the Rules and in such a manner that the **Town of Mountain Village** may access such records, if necessary, to resolve any challenge or other legal question that may arise regarding the Election.

10. HAVA Compliance: Ensure that the Election is run in accordance with the Help America Vote Act, 42 U.S.C. 15301, *et seq.*, and that all equipment used for the Election has been certified by the Colorado Secretary of State.

#### **D. Costs**

1. Allowable Costs: The **Town of Mountain Village** shall be responsible for its pro-rata share of all actual costs, which shall include those expenses permitted by state law including, but not limited to, the costs of temporary labor, part-time labor, overtime, postage, equipment delivery, extraordinary equipment rental, printing, legal publications, mailing, materials, vote center facility fees, vote center signage, and election worker expenses. All costs related to ballot printing will be pro-rated according to ballot question length/number of words. All other costs ballot costs will be split equally based on the number of eligible voters in each coordinating entity's jurisdiction. Costs for production and mailing of the TABOR Notice Package will be

similarly split based on the length in words of each entity's submission and the number of voting households in each jurisdiction. See the attached Billing Example for further explanation.

2. Separate Costs: Separate costs identified with the creating, printing, issuing and processing a special ballot persons entitled to vote on taxing or debt issues in accordance with Section E.3. below will be billed without proration.

3. Invoice: The **Clerk** shall provide the **Town of Mountain Village** with an invoice for the County's pro-rata share of expenses that includes an itemized list of such expenses and the Separate Costs in Section D.2. above. The **Town of Mountain Village** shall remit the total amount to the **Clerk** within thirty days of receipt of the invoice. The **Clerk's** determination of the amount of the invoice shall be final and in the **Clerk's** sole discretion and shall not be subject to dispute unless clearly unreasonable.

#### **E. Miscellaneous**

1. Unless otherwise specified herein, publication of any required legal notices concerning the **Town of Mountain Village's** election, which are to be published prior to certification of the ballot content, shall be the responsibility of the **Town of Mountain Village**. A copy of the published legal notice shall be submitted to the **Clerk** for her records. Publication of any required legal notices that are to be published after certification of the ballot content shall be the responsibility of the **Clerk**. The **Town of Mountain Village** may run general election informational ads after confirming ad information with the **Clerk** during the election process.

2. In accordance with the Fair Campaign Practices Act, (Title 1, Article 45, Section 109) of the Colorado Revised Statutes, all **Town of Mountain Village** issue and candidate filings are with the **Town of Mountain Village**.

3. Home Rule Charter and Mountain Village Municipal Code Exceptions: The **Town of Mountain Village** hereby notifies the **Clerk** that pursuant to the Mountain Village Home Rule Charter the following exceptions exist:

(a) Home Rule Charter Section 2.3.b. states that persons who are legal residents of the Town of Mountain Village for at least thirty (30) consecutive days immediately prior to the election, who are at least eighteen (18) years of age on the date of the election, and who register with the Town Clerk or Clerk at least twenty-nine (29) days prior to any Town of Mountain Village election may be qualified electors. This section does not require United States citizenship to qualify as a qualified resident registered elector. The Town of Mountain Village Clerk holds that registration list and is responsible for registering qualified persons and maintaining that registration list.

(b) Home Rule Charter Section 2.3.c. states that owners of real property located within the boundaries of the Town of Mountain Village who are not legal residents of the Town may become registered electors and be qualified to vote on any municipal issue at any Town of Mountain Village election so long as they register with the Town of Mountain Village Clerk, or Clerk if they are San Miguel County residents, at least twenty-nine (29) days prior to any Town of Mountain Village election, have been owners of record of real property within the Town of Mountain Village for at least thirty (30) consecutive days immediately prior to the date of the election, have during that time owned a minimum of fifty percent (50%) of the fee title interest in the subject real

property, will be at least eighteen (18) years of age at the time of the election, and are natural persons. The Town of Mountain Village Clerk holds that registration list and is responsible for registering qualified persons and maintaining that registration list.

(c) Home Rule Charter Section 2.3.d. requires that each qualified elector of the Town of Mountain Village certify by affidavit that he or she is qualified under the requirements set forth in the Home Rule Charter.

(d) Pursuant to Mountain Village Municipal Code Section 1.12.030 all municipal elections shall be non-partisan and political parties may not participate in any Town of Mountain Village elections.

(e) Pursuant to Mountain Village Municipal Code Section 1.12.050 the Town of Mountain Village has opted out of the identification requirement provisions of the State of Colorado Mail Ballot Act, C.R.S. 1-7.5-107(3.5), (4) and (5), and Colorado Secretary of State Regulations 12.5.6 through 12.5.9, for all Town of Mountain Village elections; and further, that beyond the voter registration requirement to provide the voter's date of birth, does not require further identification as a condition of registering to vote or voting in Town of Mountain Village elections. The Town of Mountain Village Home Rule Charter and Municipal Code do not require verification of signatures.

(f) All terms used and defined in the agreement shall have the same meaning as found in the Uniform Election Code of 1992, Title 1 ("Election Code") and the Mountain Village Home Rule Charter and the Mountain Village Municipal Code.

4. The **Clerk** may enter into other substantially similar agreements with other political subdivisions for conduct of this and other elections.

5. Except as herein provided, no person or entity, other than a party to this Agreement, shall have any right of action under this Agreement. It is the express intent of the parties hereto that any person receiving services or benefits under this Agreement, other than a party to this Agreement, shall be deemed an incidental beneficiary only.

6. Nothing in this Agreement shall be deemed to waive or otherwise limit any defenses or immunities that may be available to San Miguel County under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* No failure by any party hereto to exercise any right that it may have pursuant to this Agreement shall be deemed a waiver of that right, or of the right to demand exact compliance with the terms of this Agreement, or of any other right expressly or implicitly granted herein.

7. Venue for a dispute hereunder shall be in the District Court for San Miguel County. It is agreed that if any action is brought into a court of law by either party to this Agreement as to the enforcement, interpretation, or construction of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees as well as all costs incurred in the prosecution or defense of such action.

8. Should a Court of competent jurisdiction find and determine that a specific provision or provisions of this Agreement are legally void, invalid, or otherwise unenforceable, such specific provision or provisions shall be deemed to be severable from the remainder of this Agreement, which shall remain legally valid and in full force and effect



This Agreement constitutes the entire integrated agreement and understanding between the parties hereto, supersedes any prior written or oral Agreement or understanding relating to the subject matter of this Agreement, and may be modified or amended only by a duly authorized written instrument executed by the parties hereto.

*[Signatures on following page]*

THIS AGREEMENT has been executed by the parties hereto as of the date first written above.

**CLERK AND RECORDER  
SAN MIGUEL COUNTY, COLORADO**

*M Kathleen Eric*  
M Kathleen Eric

30 August 2016  
(date)

**TOWN OF MOUNTAIN VILLAGE  
MOUNTAIN VILLAGE, COLORADO**

*Jackie Kennefick*  
Jackie Kennefick, Designated Election Official

9-6-16  
(date)