

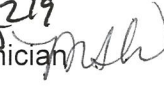


NORTHGLENN POLICE DEPARTMENT MEMORANDUM
#12-2018

DATE: September 10, 2018

TO: Honorable Mayor Carol A. Dodge and City Council Members

THROUGH: Heather Geyer, City Manager 

FROM: James S. May, Jr., Chief of Police 
Madeline M. Norconk, Administrative Technician 

SUBJECT: CR-109 – Amendment to North Metro Task Force IGA

PURPOSE

City Council is considering a proposed amendment to the North Metro Task Force IGA whereby individual parties to the IGA will be responsible for the timely application, receipt, expenditure and accounting of all Federal forfeiture funds that may become available as a result of Task Force Operations.

BACKGROUND

In 1991, through a Mutual Aid Agreement, Adams County, the City and County of Broomfield, and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn, Thornton, and Westminster established the NMTF. The City entered into the IGA on November 14, 1991. In the original Task Force IGA, the Task Force was created as a separate legal entity. The NMTF was created to investigate, arrest and file cases that lead to successful prosecutions of those individuals and/or organizations involved in the drug trafficking, possession, sale, manufacture and distribution of illegal drugs, reduce crime and make our communities safer. The IGA contemplated the receipt of both Federal and State Forfeiture funds that resulted from NMTF operations and to use those funds to supplement its operations as approved by the Governing Board and consistent to the laws, regulations and guidelines that govern the expenditure of those funds.

The Task Force established a forfeiture fund, which is also known as equitable sharing funds, to receive net forfeitures resulting from seized money and property primarily as a result of narcotic-related investigations. In the past, the forfeiture funds have been used to financially support one third of the Task Force's annual funding needs which totals \$1.495 million for 2018. Agency contributions and grants each provide one-third of the remaining funding.

The Department of Justice oversees and distributes Federal asset forfeiture funds and has proposed changes as to how the funds will be distributed in the future. These proposed changes preclude the Task Force from directly receiving forfeiture proceeds. Individual parties to the IGA

will be responsible for the timely application for the funds, receipt, accounting, distribution and compliance with all rules, regulations and laws governing the use and distribution of those funds.

STAFF RECOMMENDATION

Attached to this memorandum is a proposed resolution which, if approved, would authorize the Mayor to sign an amendment to the North Metro Task Force (NMTF) Intergovernmental Agreement whereby each Party shall be responsible for the timely application, receipt, expenditure and accounting of all Federal forfeiture funds including the filing of the Annual Equitable Sharing Agreement Compliance (ESAC) Report. Staff recommends approval of proposed CR-109.

BUDGET/TIME IMPLICATIONS

As a result of new federal forfeiture laws and guidelines, there will be an increase in agency contributions in order to fund approximately two-thirds of the Task Force's operational costs. Funds to cover the assessment increase has been requested in the proposed 2019 budget. Leaving the Task Force to start our own drug-related investigative unit would be cost prohibitive.

STAFF REFERENCE

If Council Members have any comments or questions, they may contact Chief James S. May, Jr., at 303.450.8967, or jmay@northglenn.org.

ATTACHMENTS

1. NMTF 07/26/2018 Board Meeting
2. Resolution Establishing Percentages for Distribution of Federal Forfeiture Funds to Member Agencies
3. NMTF Financial Breakdown for 2018

Resolution CR-109
Third Amendment to the NMTF IGA



North Metro Task Force Board Meeting July 26, 2018

Subject: Discussion Regarding Board of Governors' Support of Proposed Third Amendment to Intergovernmental Agreement Creating North Metro Task Force

Prepared by: Jeff Betz, Attorney to the Board
Scott Takahashi, Commander
Karen Creager, Fiscal Agent

Recommend Action:

Support the Proposed Third Amendment to the Intergovernmental Agreement Creating the North Metro Task Force (IGA) as outlined in Exhibit A and recommend approval by each of the governing bodies of the Parties to the IGA.

Summary Statement:

- In 1991, through an Intergovernmental Mutual Aid Agreement, Adams County, the City and County of Broomfield and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn, Thornton, and Westminster ("Parties"), established the North Metro Task Force (Task Force); a multijurisdictional drug task force.
- Subsequently, in 2007, the Parties agreed to the creation of the Task Force as a separate legal entity through an intergovernmental agreement.
- The original IGA provided for the Task Force to establish a forfeiture fund to receive net forfeitures resulting from seizures of money, personal and real property resulting from Task Force operations. These equitable sharing funds have been used to help financially support the daily operations of the Task Force.
- The Department of Justice is responsible for the oversight and distribution of Federal asset forfeiture funds and is proposing changes to the process of how the funds will be distributed in the future.
- These proposed changes preclude the Task Force from directly receiving forfeiture proceeds. Instead each of the participating agencies will receive a portion of forfeiture funds as determined by the Court adjudicating the case.
- Additionally, the changes necessitate that the provisions of the IGA related to distribution of Federal Forfeiture funds be amended. Sharing of the funds with the participating agency based on the percentage already established for the annual agency contributions appears to be an equitable method for distributing Federal share funds in the future.
- In anticipation of the Task Force being excluded from the direct receipt of forfeiture funds, the 2019 budget for the Task Force included an increase in agency contributions. It is anticipated that future budgets for the Task Force will continue to reflect agency contributions funding approximately two-thirds of the Task Force's operations.

Expenditure Required: N/A

Source of Funds: N/A

Policy Issue

Should the Board of Governors (Board) support the proposed third amendment to the IGA which requires the individual Parties to the IGA rather than the Task Force to apply, receive and account for federal forfeiture funds that may become available as a result of Task Force operations and recommend approval to each of the governing bodies of the Parties to the IGA.

Alternatives

The Board could choose not to support the amendment. However, this alternative is not recommended. Under proposed changes to Federal Forfeiture rules, share funds will no longer be distributed directly to the Task Force. If the proposed amendment to the IGA is not approved by the Parties, share funds would revert back to the Federal government or to another outside agency that participated in the case.

Background Information

In 1991, through an Intergovernmental Mutual Aid Agreement, Adams County, the City and County of Broomfield and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn, Thornton, and Westminster ("Parties"), established the North Metro Task Force (Task Force); a multijurisdictional drug task force. Subsequently, in 2007, the Parties agreed to the creation of the Task Force as a separate legal entity through an intergovernmental agreement (IGA). The primary benefits of operating under an IGA include collaboratively working to eradicate the illegal trafficking of drugs and other criminal enterprises, sharing the cost of coordinated administration of undercover operations and procuring separate insurance for claims related to Task Force activities.

The original IGA provided for the Task Force to establish a forfeiture fund to receive net forfeitures resulting from seizures of money, personal and real property resulting from Task Force operations. These forfeiture funds, also known as equitable sharing funds, have been used to help financially support the daily operations of the Task Force. Historically, these funds have provided approximately one-third of the Task Force's annual funding needs. Agency contributions and grants each provided one-third of the remaining funding.

The Department of Justice is responsible for the oversight and distribution of Federal asset forfeiture funds and is proposing changes to the process of how the funds will be distributed in the future. These proposed changes preclude the Task Force from directly receiving forfeiture proceeds. Instead each of the participating agencies will receive a portion of forfeiture funds as determined by

the Court adjudicating the case. The impact on the Task Force will be that agency contributions must increase to compensate for the loss of these Federal asset forfeiture funds. However, the participating agencies themselves will be entitled to a direct distribution of those funds. In anticipation of the Task Force being excluded from the direct receipt of forfeiture funds, the 2019 budget for the Task Force included an increase in agency contributions. It is anticipated that future budgets for the Task Force will continue to reflect agency contributions funding approximately two-thirds of the Task Force's operations.

The changes also necessitate that the provisions of the IGA related to distribution of Federal Forfeiture funds be amended. Sharing of the funds with the participating agency based on the percentage already established for the annual agency contributions appears to be an equitable method for distributing Federal share funds in the future. Individual parties to the IGA rather than the Task Force will be responsible for the timely application, receipt, expenditure and accounting of all Federal forfeiture funds that may become available as a result of Task Force Operations. This includes filing of the annual Equitable Sharing Agreement Compliance (ESAC) Report.

If the proposed amendment to the IGA is not approved by the Parties, share funds would revert back to the Federal government or to another outside agency that participated in the case. It is therefore recommended that the Board of Governors support the proposed amendment and recommend appropriate action by their respective governing bodies to incorporate such amendment into the IGA.

Respectfully submitted,

Scott Takahashi
Commander

Attachment: Exhibit A

R E S O L U T I O N

A RESOLUTION ESTABLISHING THE PERCENTAGES FOR THE DISTRIBUTION OF
FEDERAL FORFEITURE FUNDS TO THE MEMBER AGENCIES OF THE NORTH
METRO TASK FORCE FOR THE YEAR 2018

WHEREAS, by intergovernmental agreement ("IGA") by and among Adams County, the City and County of Broomfield and the municipalities of Brighton, Commerce City, Federal Heights, Northglenn, Thornton, and Westminster the North Metro Task Force ("NMTF") was formed as a separate legal entity and a Governing Board ("Governing Board") was established, comprised of the various Chiefs of Police of the municipalities and the Adams County Sheriff; and

WHEREAS, the IGA contemplates the receipt of both Federal and State Forfeiture funds that result from NMTF operations; and

WHEREAS, the NMTF uses these funds to supplement its operations as approved by the Governing Board and consistent the laws, regulations and guidelines that govern the expenditure of those funds; and

WHEREAS, the NMTF is currently responsible for the application, receipt, expenditure and accounting of both Federal and State forfeiture funds; and

WHEREAS, the Department of Justice is responsible for the oversight and distribution of Federal forfeiture funds to state and local agencies including the NMTF; and

WHEREAS, the Department of Justice recently changed how Federal forfeiture funds will be distributed to these agencies in the future; and

WHEREAS, as a result of these changes the individual member agencies of the IGA rather than the NMTF will be entitled to receive Federal forfeiture funds that may become available as a result of NMTF operations; and

WHEREAS, an amendment to the IGA is currently being considered by the governing bodies of the NMTF which will provide for the application, receipt, expenditure and accounting consistent with the Federal guidelines of Federal forfeiture funds by the member agencies of the IGA based on the percentage of the agencies annual contribution to the NMTF for the year the funds are made available; and

WHEREAS, Federal forfeiture funds may become available for distribution in the year 2018 as a result of NMTF operations but prior to formal approval of the IGA amendment; and

WHEREAS, the Department of Justice will require that the NMTF provide them with the percentage of forfeiture funds that may be due to the individual member agencies as a result of NMTF operations before any distribution is made; and

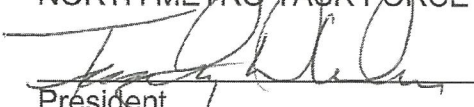
WHEREAS, it is necessary for the Governing Board to establish the percentages that may be due to the member agencies for the year 2018 in the event Federal forfeiture funds become available this year as a result of NMTF operations.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE NORTH METRO TASK FORCE, AS FOLLOWS:


1. The distribution of Federal forfeiture funds that may become available during 2018 as a result of NMTF operations shall be distributed by the Department of Justice to the member agencies based on the percentage of each member agencies annual contribution for 2018 as set forth in exhibit A which is attached hereto; and
2. This resolution is effective upon its approval by the Governing Board of the NMTF.

APPROVED on AUGUST 23RD, 2018.

GOVERNING BOARD OF THE
NORTH METRO TASK FORCE


President

ATTEST:


Asst. Secretary

NMTF Financial Breakdown

2018

Agency	Population (2015 Survey)	Percentage	Insurance Premium	Insurance Deductible	Personnel Salary / Benefits	2015/2016 Total Agency Contribution	2014/2015 Total Agency Contribution	2014/2015 Increase/ (Decrease)	Percent Change
Adams County	102,000	18.3%	\$ 9,164	\$ 9,164	\$ 58,102	\$ 76,431	\$ 67,461	\$ 8,970	13%
Broomfield	65,065	11.7%	\$ 5,846	\$ 5,846	\$ 37,063	\$ 48,754	\$ 49,313	\$ (559)	-1%
Brighton	37,585	6.8%	\$ 3,377	\$ 3,377	\$ 21,409	\$ 28,163	\$ 28,691	\$ (528)	-2%
Commerce City	53,696	9.6%	\$ 4,824	\$ 4,824	\$ 30,587	\$ 40,235	\$ 36,881	\$ 3,354	9%
Federal Heights	12,381	2.2%	\$ 1,112	\$ 1,112	\$ 7,053	\$ 9,277	\$ 10,982	\$ (1,705)	-16%
Northglenn	39,197	7.0%	\$ 3,522	\$ 3,522	\$ 22,328	\$ 29,371	\$ 29,568	\$ (197)	-1%
Thornton	133,451	24.0%	\$ 11,990	\$ 11,990	\$ 76,017	\$ 99,997	\$ 91,178	\$ 8,819	10%
Westminster	113,130	20.3%	\$ 10,164	\$ 10,164	\$ 64,442	\$ 84,771	\$ 78,443	\$ 6,328	8%
Totals:	556,505	100%	\$ 50,000	\$ 50,000	\$ 317,000	\$ 417,000	\$ 392,517	\$ 24,483	6%

DATED at Northglenn, Colorado, this ____ day of _____, 2018.

CAROL A. DODGE
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

THIRD AMENDMENT TO THE AGREEMENT AMONG ADAMS COUNTY, CITY AND COUNTY OF BROOMFIELD, AND THE MUNICIPALITIES OF BRIGHTON, COMMERCE CITY, FEDERAL HEIGHTS, NORTHGLENN, THORNTON, AND WESTMINSTER TO ESTABLISH THE NORTH METRO TASK FORCE AS A LEGAL ENTITY

THIS THIRD AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT creating the North Metro Task Force is made and entered into among ADAMS COUNTY, CITY AND COUNTY OF BROOMFIELD, AND THE MUNICIPALITIES OF BRIGHTON, COMMERCE CITY, FEDERAL HEIGHTS, NORTHGLENN, THORNTON AND WESTMINSTER, herein referred to individually as a “Party” and collectively as the “Parties”.

WHEREAS, by intergovernmental agreement by and among the Parties entered into in 2007 (“IGA”), formed the North Metro Task Force (“NMTF”) as a separate legal entity and a Governing Board (“Board”) was established, comprised of the various Chiefs of Police of the municipalities and the Adams County Sheriff, and

WHEREAS, the IGA contemplates the receipt of both Federal and State Forfeiture funds that result from Task Force operations; and

WHEREAS, the Task Force uses these funds to supplement its operations as approved by the Governing Board and consistent the laws, regulations and guidelines that govern the expenditure of those funds; and

WHEREAS, the Task Force is currently responsible for the application, receipt, expenditure and accounting of both Federal and State forfeiture funds; and

WHEREAS, the Department of Justice is responsible for the oversight and distribution of Federal forfeiture funds to state and local agencies including the Task Force; and

WHEREAS, the Department of Justice recently changed how Federal forfeiture funds will be distributed to these agencies in the future; and

WHEREAS, as a result of these changes the individual parties to the IGA rather than the Task Force will be responsible for the application, receipt, expenditure and accounting of all Federal forfeiture funds that may become available as a result of Task Force operations.

NOW, THEREFORE, it is mutually agreed by and among each of the Parties as follows:

1. Section 7.9 of the IGA shall be amended to read:

7.9 ~~The Task Force may establish a Forfeiture Fund~~ FORFEITURE FUNDS RESULTING FROM TASK FORCE OPERATIONS.

7.9.1 The net S T A T E forfeitures resulting from seizures of money, personal and real property resulting from Task Force operations shall be placed in the Forfeiture Fund, with such funds being used to supplement Task Force operations as approved by the Governing Board.

7.9.2 The Governing Board will establish a formula for the equitable distribution of remaining excess STATE forfeiture funds based upon the relative participation of each Party.

7.9.3 Task Force S T A T E Forfeiture Funds DISTRIBUTIONS will be audited REPORTED on a quarterly PERIODIC basis ~~The results of the audit will be presented~~ to the Governing Board for review.

7.9.4 Governing Board members at their discretion and individual agency expense may elect to conduct an independent audit of the S T A T E forfeiture funds.

7.9.5 No STATE Forfeiture Funds will be ~~transferred to~~ EXPENDED BY the Task Force for operational expenditures without written authorization of the Governing Board.

7.9.6 FEDERAL FORFEITURE FUNDS MAY BECOME AVAILABLE AS A RESULT OF TASK FORCE OPERATIONS. IN THE EVENT FEDERAL FORFEITURE FUNDS ARE MADE AVAILABLE, THOSE FUNDS WILL BE DISTRIBUTED DIRECTLY TO THE PARTIES OF THE TASK FORCE BASED ON THE PERCENTAGE OF THE PARTY'S ANNUAL MONETARY CONTRIBUTION TO THE TASK FORCE FOR THE YEAR THE FUNDS ARE MADE AVAILABLE. EACH PARTY SHALL BE RESPONSIBLE FOR MAKING A TIMELY APPLICATION FOR THOSE FUNDS AND RESPONSIBLE FOR THE RECEIPT, ACCOUNTING AND DISTRIBUTION OF THE FUNDS IN COMPLIANCE WITH ALL RULES, REGULATIONS AND LAWS GOVERNING THE USE AND DISTRIBUTION OF THOSE FUNDS.

2. All other terms and conditions of the IGA shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused their names to be affixed as set forth below and this Third Amendment is effective as of the last date written below.

CITY OF NORTHGLENN, COLORADO

By: _____
Carol A. Dodge, Mayor

ATTEST:

Johanna Small, CMC, City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, City Attorney