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DEPUTY AUDITOR GENERAL

**ARIZONA AUDITOR GENERAL**  
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January 17, 2019

The Honorable Craig Sanderson, Mayor of the Town of Tusayan  
and Members of the Tusayan Town Council  
P.O. Box 709  
845 Mustang Dr.  
Tusayan, AZ 86023

Dear Mayor Sanderson and Members of the Town Council:

Arizona Constitution, Art. IX, §20, allows a city or town to adopt an alternative expenditure limitation (Home Rule) that is different from the State-imposed expenditure limitation if approved by a majority of the qualified voters. In accordance with Arizona Revised Statutes (A.R.S.) §41-563.03, a city or town must prepare and submit detailed and summary analyses of the Home Rule to the Auditor General for review at least 60 days prior to the election. The city or town must also prepare a publicity pamphlet in accordance with A.R.S. §§19-123 and 41-563.03 presenting the proposed Home Rule and including the summary analysis as reviewed by our Office. Pursuant to Attorney General Opinion 188-108, a city or town that fails to follow the statutorily prescribed requirements invalidates the adopted expenditure limitation.

On March 9, 2018, our Office sent an email to cities and towns that would potentially hold an election to adopt a Home Rule in the fall of 2018, including the Town of Tusayan. This email provided information and resources for preparing the Home Rule documents for our Office's review. Subsequently, the Town did not notify our Office of its intent to pursue a Home Rule for fiscal years 2020-2023; we only became aware of the Town's planned election on October 3, 2018, when an Auditor General staff member received the Tusayan Town News by email.

After learning of the Town's planned election, we called the Town on October 3, 2018, to discuss the statutory requirements and potential consequences of noncompliance. In response, the Town emailed a draft publicity pamphlet on October 11, 2018. However, the draft pamphlet did not include the statutorily required summary analysis of the Home Rule. Further, the Town did not provide our Office with additional information prior to the election despite our repeated requests for additional information. Contrary to statute, after its election, the Town provided our Office with a pamphlet on November 13, 2018, and a detailed analysis and summary worksheet on November 15, 2018.

Based on the information the Town submitted, the Town did not comply with the statutorily prescribed requirements for adoption of a Home Rule for the following reasons:

1. The Town did not prepare and submit detailed and summary analyses of the proposed alternative expenditure limitation to the Auditor General for review at least 60 days prior to the election in accordance with A.R.S. §41-563.03. In conducting a cursory review of the untimely worksheets the Town provided to our Office after its election, it is evident that the detailed and summary analyses the Town completed

were deficient as the worksheets are incomplete, contain internal inconsistencies, and lack the necessary supporting documentation.

2. The Town did not submit a copy of the printed publicity pamphlet to the Auditor General before the election in accordance with A.R.S. §41-563.03. The Town submitted a draft publicity pamphlet that did not include a summary analysis including the estimated total expenditures under the proposed alternative expenditure limitation and the State-imposed limitation, and the estimated amount of revenues from which any expenditure limitation would be funded. Although we informed the Town that the initial draft publicity pamphlet provided was deficient, the Town did not provide an updated pamphlet until after the election.

Because the Town did not comply with the statutorily prescribed requirements for adopting a Home Rule, the alternative expenditure limitation adopted on November 6, 2018, for fiscal years 2020-2023 is invalid, and the Town must use the State-imposed expenditure limitation beginning with the year ended June 30, 2020. The Economic Estimates Commission sets each town's State-imposed expenditure limitation by April 1 for the following fiscal year. If the Town exceeds its expenditure limitation in fiscal year 2020 without authorization, the Town will have its state income tax (urban revenue sharing monies) withheld based on the percentage of the excess expenditures in accordance with A.R.S. §41-1279.07(H). Before State monies are withheld, our Office would hold a hearing to determine if the town exceeded the expenditure limitation without authorization. The State Treasurer withholds the penalty in the fiscal year following the hearing.

The Town should consult with its legal counsel to determine how best to avoid any potential overexpenditure and resulting penalties. Options available to the Town may include seeking voter approval to adopt a Home Rule effective for fiscal years 2022-2025 in the fall of 2020, and seeking voter approval to exceed the Town's State-imposed expenditure limitation by a specific amount, in accordance with Arizona Constitution, Art. IX, §20(2)(c), to be effective in the fiscal year after the election. The Town must follow the requirements in A.R.S. §41-563.03 when seeking voter approval to adopt a Home Rule, including submitting the required documents to our Office for review at least 60 days prior to the election. The Town does not need to notify our Office prior to the election for a one-time override. However, if the override passes, the Town must send us a copy of the publicity pamphlet it sent to the voters and the election results' official canvass.

If you have questions concerning this matter and the Town's options, please call Megan Smith, Accounting Services Manager, or me at (602) 553-0333.

Sincerely,

Laura J.P. Miller, CPA  
Accounting Services Director

cc: Mr. Eric Duthie, Town Manager  
Mr. Bruce Northern, Town Clerk  
Town of Tusayan  
Economic Estimates Commission