

WORK SESSION
April 4, 2016
6:00 PM

CALL TO ORDER BY MAYOR

1 ROLL CALL BY THE CITY CLERK

2. 2016-2017 DRAFT ANNUAL ACTION PLAN UPDATE

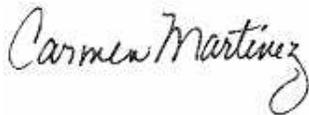
City Council will receive an update on the draft of the City's 2016-2017 Annual Action Plan which is required by the U.S. Department of Housing and Urban Development as a condition to receive the Community Development Block Grant (CDBG) and HOME Investment Partnership funding (HOME). For information, discussion and direction.

3. SPECIAL EVENTS STATUS REPORT

City Council will receive an update of the special events that have occurred over the past nine months and seek feedback and input into planning the 2016-2017 special event programs. For information, discussion and possible direction.

4 ADJOURNMENT

Respectfully submitted,



Carmen Martinez
City Clerk

Council Members of the City of Avondale will attend either in person or by telephone conference call.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica.

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.

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CITY COUNCIL AGENDA

SUBJECT:

2016-2017 Draft Annual Action Plan Update

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Stephanie Small, Neighborhood and Family Services Director 623-333-2711

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff is seeking City Council direction on the draft Annual Action Plan which contains recommended budget allocations for CDBG and HOME funds by activity.

BACKGROUND:

As an entitlement grantee, the City of Avondale receives annual allocations of CDBG funds from HUD, and HOME funds as a member of the Maricopa County HOME Consortium. HUD has allocated \$574,039 in Community Development Block Grant (CDBG) funds to Avondale for Fiscal Year 2016-2017. The City will also receive \$134,098 in HOME Investment Partnership (HOME) funds for Fiscal Year 2016-2017.

The Federal objective of the CDBG program is to "develop viable urban communities by providing decent housing, a suitable living environment and economic opportunities for low-moderate income persons." The objective of the HOME Program is to "create affordable housing opportunities for low-income persons." City of Avondale goals and objectives with respect to CDBG and HOME are defined in the 5-Year Consolidated Plan which was approved by City Council in April 2015. The Consolidated Plan identified the housing, economic and social development needs of low-income and special needs persons and prescribed strategies to address them.

The Annual Action Plan serves as an update to the Consolidated Plan and identifies the goals, strategies and expected outcomes for that program year. HUD requires that local governments involve the public in completing their Annual Action Plans.

DISCUSSION:

Neighborhood and Family Services (NFS) is currently seeking input as part of the public participation process for the Annual Action Plan. The first public meeting was held on March 2, 2016. The Neighborhood and Family Services Commission reviewed and provided input on the plan on March 23, 2016, at which time the Commission gave their recommendation to request that the Council approve the activities and allocations as recommended by staff. The draft Annual Action Plan was made available to the public for a 30-day comment period beginning March 10th. Data gathered from the public participation process to date supports the community priorities which remain as follows: preserve the existing affordable housing stock, increase homeownership opportunities, affirmatively further fair housing in Avondale, support organizations that assist the City's special needs population, support new construction and rehabilitation of affordable rental development, improve public infrastructure and economic conditions in low-income, economically-

challenged neighborhoods and to reduce lead based paint hazards in residential dwellings in Avondale. NFS staff, along with the support of the NFS Commission is proposing the following allocations and activities for the 2016/17 Annual Action Plan to City Council.

CDBG Allocations:

1. Street Reconstruction \$225,000;
2. Emergency Home Repair \$184,232;
3. Revitalization Area and Small Business Assistance \$40,000;
4. Youth Services \$10,000;
5. Administration \$114,807.

HOME Allocations:

1. Home Buyer and Substantial Owner-occupied Rehabilitation Assistance \$125,717;
2. Administration \$8,381.

BUDGET IMPACT:

The use of \$134,098 in HOME funds will require a 25% non-federal match from the City of Avondale, which will be included in the proposed budget for next fiscal year. This amounts to \$33,525. CDBG funds do not require match.

RECOMMENDATION:

This item is for information, discussion and direction.

ATTACHMENTS:

Description

[2016-2017 Annual Action Plan Draft Executive Summary](#)

[2016-2017 Draft Activity Allocations](#)

Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

Each year, the U.S. Department of Housing and Urban Development (HUD) provides the City of Avondale with an annual allocation of Community Development Block Grant (CDBG) funds to undertake a variety of community development activities. These activities may include: rehabilitation of housing and commercial spaces, assistance to first-time homebuyers, construction of public infrastructure and facilities, demolition of unsafe structures, economic development and assistance to public service providers. During the 2016-2017 program year, HUD has allocated \$574,807 in CDBG funds to the City of Avondale for these activities.

Prior to commitment of funding to specific activities, the City must complete this Annual Action Plan, which will a Consolidated Plan and to assess the community development needs of low and moderate income residents and neighborhoods. Updated every five years, this needs assessment establishes general community development goals that the City will pursue during this period. Within this five-year cycle, the City also prepares Annual Action Plans that identify and fund specific activities in furtherance of the Consolidated Plan. Development of both Plans is a highly participatory process, involving substantial input from the public. This Plan

To this end, the Neighborhood and Family Services Department (NFS) held an extensive public participation process to receive input for the development of both Plans. The first public hearing was held on March 2, 2016 with the second public meeting held on March 23, 2016 in conjunction with the Neighborhood and Family Services Commission meeting. An additional public hearing was held during a City Council meeting on April 18, 2016, at which time the draft plan was discussed with City Council.

2. Summarize the objectives and outcomes identified in the Plan

Through careful evaluation of existing conditions, plans and public input, the City of Avondale developed the following goals to be pursued in the 2015-2019 Consolidated Planning cycle: 1) preserve and expand affordable housing to low and moderate income residents; 2) replace outdated infrastructure in low and moderate income areas; 3) acquire and demolish dilapidated structures; 4) support internal and external efforts to provide programming and other assistance to underserved populations, particularly youth and seniors; 5) promote business growth throughout the City with an emphasis on the Western Avenue area and other commercial areas of Historic Avondale; 6)

affirmatively further Fair Housing in Avondale; and 7) reduce residential Lead-Based Paint Hazards. A detailed discussion of these goals is included in Section AP-20 of this Plan.

3. Evaluation of past performance

The City of Avondale became a CDBG entitlement and received approval of its first Consolidated Plan in May 2006. Since that time, the City continues to evaluate its programs and procedures for compliance with applicable regulations, and refines processes to enhance efficiency and comply with regulatory changes.

Since this time, the City undertook several CDBG-funded activities in furtherance of the goals in the Consolidated Plans in effect at the time. These activities and accomplishments include: 1) Owner Occupied Housing Rehabilitation – 52 homes received emergency home repair assistance and five homes received substantial home repair assistance (CDBG-R funding); 2) Public Improvements to Infrastructure – completed reconstruction of twelve streets in low-income neighborhoods in Historic Avondale; 4) Youth Job Training and Employment Programs – assisted 75 teens with job training, summer jobs and tuition assistance; 5) Façade Improvements -- assisted six Historic Avondale businesses with exterior renovation; 6) Loan Guarantees – partnered with Clearinghouse CDFI (formerly Arizona MultiBank) to guarantee loans to five Historic Avondale for business expansion; 7) Demolition – one dilapidated single-family home was demolished.

In addition to CDBG entitlement funding, the City also receives an annual allocation of HOME funds through the Maricopa HOME Consortium. Since 2006, the City also obtained two competitively-awarded HOME grants through the Arizona Department of Housing, and two Neighborhood Stabilization Program (NSP) funding awards. Combined, HOME funding from both sources was used to complete substantial home repairs at sixteen owner-occupied units. NSP funding provided Homebuyer Assistance – assisted 40 homebuyers.

4. Summary of Citizen Participation Process and consultation process

The City of Avondale undertook extensive outreach to residents, business owners, non-profit service providers, and elected and appointed officials. A community needs assessment survey was created and disseminated via the City's website (avondale.org), as well as paper copies provided at various locations throughout the City, including the Care1st Avondale Resource Center and the Avondale Community Center. The City held several public meetings and hearings and discussed the citizen participation process, findings and proposed goals of the Consolidated Plan with the City's Neighborhood and Family Services Commission.

5. Summary of public comments

The City's public participation process indicated a need to: preserve existing housing stock; expand affordable housing opportunities for low and moderate income households; develop and support programming for youth and other underserved populations; improve public safety through the acquisition and demolition of unsafe structures; expand economic opportunities through infrastructure development and small business assistance.

6. Summary of comments or views not accepted and the reasons for not accepting them

The City of Avondale accepted all comments offered by the public.

7. Summary

Using the Needs Assessment within the 2015-2019 Consolidated Plan, The City of Avondale completed extensive research and public participation to develop the 2016-2017 Annual Action Plan. The City received nearly **INSERT** responses from its Community Needs Survey, as well as through several public meetings and hearings. This development yielded an important community needs assessment that forms the basis of this Plan, as well as the funding priorities for the City's HUD-funded activities for the next five years.

Annual Action Plan FY 2016-17
CDBG and HOME Allocations/Activity

Proposed Allocations – Pending Public Comment and Council Approval

CDBG Allocation: **\$574,039**

Activity	Amount Proposed	Expected Outcomes
Administration	\$114,807	General Admin (20% of total allocation)
Street and Infrastructure Improvements	\$225,000	5 Streets
Emergency Home Repair	\$184,232	Approximately 15 units
Youth Services	\$10,000	Up to 20 youth to be assisted
Revitalization and Small Business Assistance	\$40,000	Micro business technical assistance, uniform signage; re-branding to Historic Avondale, Revitalization Area event support, loan fund, commercial rehabilitation.

HOME Allocation: **\$134,098** *(Included for reference – reported as part of the Maricopa County HOME Consortium Annual Action Plan)*

Administration	\$8,381	General Admin
Homebuyer Assistance	\$29,998	2 Units
Substantial Rehabilitation	\$95,719	2 Units



CITY COUNCIL AGENDA

SUBJECT:

Special Events Status Report

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Kirk Haines, Parks, Recreation & Libraries Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff will provide the City Council information regarding special events that have occurred over the past nine months, and seek input and possible direction regarding planning the 2016-17 special event programs.

BACKGROUND:

In July 2015, staff presented an overview of special events planned for the 2015-16 fiscal year. Special events are designed to draw citizens of Avondale together and create a sense of community pride and gathering that celebrates and embraces the rich diversity of our city. One of the primary objectives of city special events is to enhance the quality of life for Avondale residents. Special events establish community goodwill, they highlight our community, encourage community outreach and involvement, promote health and wellness, and attract visitors to the City. The following is a list of signature special events offered since last summer:

Special Events

- A Day Of Play
- Movie Night at PIR
- RAN/GAIN
- Veterans Day Celebration
- Mayor's Golf Challenge
- Winterfest
- Avondale Showcase - Comedy Night at EMCC
- Tale of Two Cities Parade and Festival
- Tres Rios Nature Festival
- KidFest - April 9
- Avondale Fiesta - April 30
- Memorial Day - May 30

The city uses a contracted event coordinator, Goosebump, to plan, organize and staff the special event programs. Avondale staff help plan and support our event planners in several areas including public safety, first aid, promotion and marketing, and some staff for set up and break down of events. Depending on the size of the event, total cost can exceed the direct event cost paid through Goosebump by thousands of dollars in labor and overtime expenses.

DISCUSSION:

As we wrap up the FY15-16 special events, we are also planning and preparing for the FY16-17 events. Part of this planning process includes an assessment and evaluation of our current special events to determine whether the same events should be continued and whether some programs need to be modified, or eliminated to make way for new programs for our community. Since one of the primary goals of our special events is to bring our residents together, we are considering different alternatives to make the connection with our community.

Additional Events

The City of Avondale offers many special events throughout the year beyond our signature event series, in which the primary planning department is not the Parks, Recreation & Libraries Department. Some of these events include:

- Care 1st of Avondale Resource Fair
- Cashion Holiday Celebration
- Avondale Farmer's Market
- Fire Station Open Houses
- Project WET
- Make a Difference Day
- STEM Fest
- Avondale Writers' Conference (not part of event series but planned by Parks, Recreation and Libraries Department)

Since many departments already invest resources into these events, it may be advantageous to build from existing programs and services while eliminating some potential duplication of resources to bring these important activities to our residents.

Community Events

In addition to these events, community organizations host events in which the City has provided in-kind or financial support. These partnerships between Avondale and other organizations also meet community needs. In these circumstances, Avondale may provide resources, facilities, or funding to help support these programs for our community. Examples of these events include:

- Black History Month/MLK Jr. - Estrella Mountain Community College (EMCC)
- VetFest - Historic Avondale Merchants Association (HAMA)
- Dia de los Muertos Celebration - Ballet Folklorico Esperanza
- IMS Marathon
- Criterion Bicycle Race

Billy Moore Days

During the special events update last August, City Council guided staff to begin planning for the return of Billy Moore Days. Staff conducted a community survey seeking information about what elements of Billy Moore Days were most important ranging from location, to type of activities, to how many days for the event. Staff will provide the survey results and provide alternatives for City Council to discuss and consider. Staff is seeking direction and recommendations in preparation for the FY16-17 special event program.

BUDGET IMPACT:

The City budgets \$184,000 annually for special events. Revenue from sponsorships, partnerships and miscellaneous fees such as vendors adds another \$63,000 per year. Total cost for special events is projected to be ~ \$240,000 for FY 15 - 16.

RECOMMENDATION:

Staff is seeking City Council feedback to build the FY16-17 Special Events program.



CITY COUNCIL AGENDA

CITY COUNCIL CHAMBERS . 11465 WEST CIVIC CENTER DRIVE . AVONDALE, AZ 85323

REGULAR MEETING

April 4, 2016

7:00 PM

CALL TO ORDER BY MAYOR PLEDGE OF ALLEGIANCE MOMENT OF REFLECTION

- 1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK
- 2 RECOGNITION ITEMS (MAYOR PRESENTATIONS)
 - a. **NATIONAL LEAGUE OF CITIES -- CITY CULTURAL DIVERSITY AWARDS**
 - b. **PROCLAMATION - MAYOR RECOGNITION DAY FOR NATIONAL SERVICE**

- 3 UNSCHEDULED PUBLIC APPEARANCES

(Limit three minutes per person. Please state your name.)

- 4 CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

- a. **APPROVAL OF MINUTES**

1. Work Session of March 14, 2016
2. Regular Meeting of March 14, 2016
3. Work Session of March 21, 2016
4. Regular Meeting of March 21, 2016

- b. **SPECIAL EVENT LIQUOR LICENSE - WILDCAT POKER TOURNAMENT AT ST. THOMAS AQUINAS**

City Council will consider a request from Louis Sisbarro on behalf of St. Thomas Aquinas' Wildcat Dads Club for approval of a special event liquor license to be used in conjunction with their Wildcat Poker Tournament scheduled for Saturday, April 9, 2016 at St. Thomas Aquinas Church located at 13720 W Thomas Road in Avondale. The Council will take appropriate action.

- c. **TEMPORARY EXTENSION OF PREMISES - WILD WILLY'S CANTINA**

City Council will consider a request for approval of a temporary extension of premises of a Series 06 Bar Liquor License at Wild Willy's Cantina located at 613 E Western Avenue in Avondale to be used in conjunction with the City sponsored Avondale Fiesta on Saturday April 30, 2016. The Council will take appropriate action.

d. RESOLUTION 3304-416 - ADOPTING THE POST EMPLOYMENT HEALTH PLAN FOR THE AVONDALE PROFESSIONAL FIREFIGHTERS ASSOCIATION

City Council will consider a resolution approving the establishment of a Voluntary Employee Benefit Association/Post Employment Health Plan for the Avondale Professional Firefighters Association, International Association of Local 3924 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. RESOLUTION 3305-416 - APPROVING THE CITY OF AVONDALE 401(A) TRUST PLAN

City Council will consider a resolution approving the City of Avondale 401(A) Trust Plan effective July 1, 2016 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. RESOLUTION 3306-416 - AMENDMENT TO NATIONWIDE 457 DEFERRED COMPENSATION PLAN TO ADD A ROTH OPTION

City Council will consider a resolution authorizing the City Manager to review and approve the proposed addition of a Roth option to the Nationwide deferred compensation plan (457) adopted by the City in 1994 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

5 CONSTRUCTION CONTRACT AWARD - DNG CONSTRUCTION, LLC FOR IMPROVEMENTS AT FRIENDSHIP PARK

City Council will consider a request to award a contract to DNG Construction, LLC. for improvements at Friendship Park in the amount of \$3,004,427.07, authorize the the necessary transfer and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

6 HOOVER DAM POWER PURCHASE

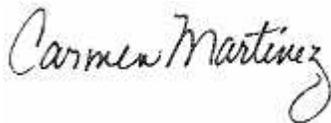
City Council will receive information regarding the option to purchase Hoover Dam power directly from the Arizona Power Authority (APA) at a reduced rate compared to current electric utility power charges. This item is for information, discussion and direction.

7 PUBLIC HEARING - HOME RULE ALTERNATIVE EXPENDITURE LIMITATION

City Council will hold the second of two required public hearings on the home-rule alternative expenditure limitation option. The Council will take appropriate action.

8 ADJOURNMENT

Respectfully submitted,



Carmen Martinez
City Clerk

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CITY COUNCIL AGENDA

SUBJECT:

National League of Cities -- City Cultural
Diversity Awards

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Pier Simeri, Community Relations and Public Affairs Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff will update the City Council on the City's second place award received at the City Cultural Diversity Awards at the National League of Cities Congressional Cities Conference in Washington DC.

BACKGROUND:

On March 17, 2016, the City of Avondale received a second place award in the 2016 City Cultural Diversity Awards ceremony, held during the National League of Cities conference in Washington DC. Mayor Kenn Weise accepted the award on behalf of the city.

The National League of Cities recognizes and celebrates the growing diversity of America's communities and believes that diversity should be reflected in the activities of all cities and towns across the nation. As a result, the National League of Cities, with one of its constituency groups, NBC-LEO, established the City Cultural Diversity Awards in 1995, as a means of demonstrating quality and innovation in relation to the many aspects of cultural diversity. This award program is designed to: 1) encourage citizen involvement in local government-sponsored activities; and 2) enhance and show the appreciation of cultural diversity as a way of life in our municipalities.

The City Cultural Diversity Awards Program has been developed to showcase examples of how cities achieve excellence in diversity. It also promotes the positive results of "a total community collaboration." The awards are given to honor community leadership in developing creative and effective programs to improve cultural diversity.

DISCUSSION:

As part of Council's desire to see Avondale's profile raised with regard to its outstanding programs, services and initiatives, the city submitted an application for the City Cultural Diversity Awards. Avondale's submission pertained to the city's on-going care and upkeep of the Goodyear Farms Cemetery, a historic site that serves as the final resting place for migrant farm workers and their families.

Established in 1917 to bury the deceased employees of Goodyear Farms and the Wigwam Resort in Litchfield Park, the Avondale cemetery holds the remains of the Hispanic farm workers who toiled the surrounding cotton fields. A large number of those buried there were victims of the Flu Pandemic of 1918, as well as numerous military veterans. Though time and the elements have left

many graves unmarked or with only simple crosses and dates, descendants, activists, community leaders and others see the site as a substantial part of Avondale's rich cultural heritage.

As part of the city's award submission, staff highlighted the efforts of the community who participate in annual clean up efforts to beautify the cemetery grounds. Staff also highlighted the engagement from Ballet Folklórico Esperanza, a non-profit group which hosts an annual Día De Los Muertos Festival, an event that continues to draw the community to the Goodyear Farms cemetery, thereby raising public awareness of this historically and culturally-significant site in Avondale.

RECOMMENDATION:

For Council update only. Staff will present the award received at the NLC conference to the Council. Council may wish to recognize member of Ballet Folklórico Esperanza who may be present at the Council meeting.



CITY COUNCIL AGENDA

SUBJECT:

Proclamation - Mayor Recognition Day for National Service

MEETING DATE:

4/4/2016

TO: Mayor and Council**FROM:** Stephanie Small, Neighborhood and Family Services Director**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Issue a proclamation recognizing April 5, 2016 as Mayor Recognition Day for National Service

BACKGROUND:

To spotlight the impact of national service and thank those who serve, mayors and county officials will participate in the fourth-annual Mayor and County Recognition Day for National Service on April 5, 2016. The nation's local officials are increasingly turning to national service as a cost-effective strategy to address local challenges. By unleashing the power of citizens, AmeriCorps and Senior Corps programs have a positive and lasting impact – making our cities and counties better places to live.

DISCUSSION:

As solution-focused local leaders, mayors and county officials have a unique role in this country. Their focus on engaging citizens and meeting local needs is consistent with the Corporation for National and Community Service' mission to improve lives, strengthen communities, and foster civic engagement. A coordinated day of recognition presents a unique opportunity to spotlight the key role that national service plays in solving local problems and challenges. Participating in the day highlights the impact of citizen service, show support for nonprofit and national service groups, and inspire more residents to serve in their communities.

BUDGET IMPACT:

There is no budgetary impact for this item

RECOMMENDATION:

Staff recommends that Council issue a proclamation recognizing April 5, 2016 as Mayor Recognition Day for National Service.

ATTACHMENTS:

Description

[Proclamation](#)

Mayor's Recognition Day for National Service

April 5, 2016

WHEREAS, service to others is a hallmark of the American character, and central to how we meet our challenges; and

WHEREAS, the nation's cities are increasingly turning to national service and volunteerism as a cost-effective strategy to meet their needs, expanding economic opportunity by creating more sustainable, resilient communities and providing education, career skills and leadership abilities for those who serve; and

WHEREAS, AmeriCorps and Senior Corps participants address the most pressing challenges facing our communities, from educating students for the jobs of the 21st century and supporting veterans and military families to providing health services and helping communities recover from natural disasters; and

WHEREAS, AmeriCorps and Senior Corps participants serve in more than 50,000 locations across the country, bolstering organizations that are so vital to our economic and social well-being; and

WHEREAS, national service participants increase the impact of the organizations they serve, both through their direct service and by managing millions of additional volunteers; and

WHEREAS, national service represents a unique public-private partnership that invests in community solutions and leverages non-federal resources to strengthen communities and increase the return on taxpayer dollars; and

WHEREAS, national service participants demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

WHEREAS, the Corporation for National and Community Service shares a priority with county officials and mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with the National League of Cities, National Association of Counties, Cities of Service, and mayors and county officials across the country for the Mayor and County Recognition Day for National Service on April 5, 2016.

NOW THEREFORE, I Kenneth N. Weise, by virtue of the authority vested in me as Mayor of the City of Avondale, Arizona do hereby proclaim April 5, 2016 as National Service Recognition Day and encourage residents to recognize the positive impact of national service in our county; to thank those who serve; and to find ways to give back to their communities.

Mayor

ATTEST:

City Clerk



CITY COUNCIL AGENDA

SUBJECT:

Special Event Liquor License - Wildcat Poker
Tournament at St. Thomas Aquinas

MEETING DATE:

4/4/2016

TO: Mayor and Council**FROM:** Carmen Martinez, City Clerk (623) 333-1214**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is recommending approval of an application submitted by Mr. Louis Sisbarro on behalf of Wildcat Dads Club for a special event liquor license to be used in conjunction with their Wildcat Poker Tournament scheduled for Saturday, April 9, 2016 at St. Clare Hall in St. Thomas Aquinas Church located at 13720 W Thomas Road in Avondale.

DISCUSSION:

The City Clerk's Department has received a request from Mr. Louis Sisbarro on behalf of the Wildcat Dads Club at St. Thomas Aquinas School for a special event liquor license to be used in conjunction with their Wildcat Poker Tournament scheduled for Saturday, April 9, 2016 at St. Clare Hall within St. Thomas Aquinas Church. The required fees have been paid.

Staff has determined that the applicant is not requesting any city support other than normal city services. The Police and Fire Departments have reviewed the application and are recommending approval. Their comments are attached.

Staff reviewed this application using the 14 factors set forth in Ordinance 1031-04. The findings are as noted below:

1. The event will be open to the public
2. Criminal history of the applicant - A background check of the representative, Mr. Louis Sisbarro, revealed no contact with the Avondale Police Department
3. The event is a Texas Hold'em Poker tournament to raise funds
4. Security measures taken by the applicant - The Police Department has reviewed the security plan and has determined it to be sufficient
5. Beer and wine will be served Beverages will be dispensed in disposable cups and containers
6. There were no neighborhood disturbances during previous event held on November 7, 2015
7. Event activities will be confined to St. Clare Hall within the St. Thomas Aquinas Church campus so there is no potential for problems in the neighborhood in terms of noise, hours and time of the event
8. The event will last six hours
9. Sanitary facilities are available within the church campus
10. Zoning is appropriate - Zoning is Planned Area Development.
11. Planning staff has indicated that the proposed use will not result in incompatible land uses

12. Anticipated total daily attendance is 50 people
13. There will not be sound amplification.
14. Per the Police Department, traffic control measures will not be necessary

BUDGET IMPACT:

This item does not have any budgetary impact.

RECOMMENDATION:

Staff is recommending approval of an application submitted by Mr. Louis Sisbarro for a special event liquor license to be used in conjunction with their Wildcat Poker Tournament scheduled for Saturday, April 9, 2016 at St. Clare Hall in St. Thomas Aquinas Church located at 13720 W Thomas Road in Avondale.

ATTACHMENTS:

Description

[Application](#)

[Review by Departments](#)



Arizona Department of Liquor Licenses and Control
 800 W Washington 5th Floor
 Phoenix, AZ 85007-2934
 www.azliquor.gov
 (602) 542-5141

FOR DLIC USE ONLY	
Event Date(s):	
Event time start/end:	
CSR:	
License:	

APPLICATION FOR SPECIAL EVENT LICENSE
 Fee= \$25.00 per day for 1-10 days (consecutive)
 A service fee of \$25.00 will be charged for all dishonored checks (A.R.S. § 44-6852)

IMPORTANT INFORMATION: This document must be fully completed or it will be returned.

The Department of Liquor Licenses and Control must receive this application ten (10) business days prior to the event. If the special event will be held at a location without a permanent liquor license or if the event will be on any portion of a location that is not covered by the existing liquor license, this application must be approved by the local government before submission to the Department of Liquor Licenses and Control (see Section 15).

SECTION 1 Name of Organization: STAGS Wildcats Dads Club

SECTION 2 Non-Profit/IRS Tax Exempt Number: 26-2563865

SECTION 3 The organization is a: (check one box only)

- Charitable Fraternal (must have regular membership and have been in existence for over five (5) years)
 Religious Civic (Rotary, College Scholarship) Political Party, Ballot Measure or Campaign Committee

SECTION 4 Will this event be held on a currently licensed premise and within the already approved premises? Yes No

 Name of Business License Number Phone (include Area Code)

SECTION 5 How is this special event going to conduct all dispensing, serving, and selling of spirituous liquors? Please read R-19-318 for explanation (look in special event planning guide) and check one of the following boxes.

- Place license in non-use
 Dispense and serve all spirituous liquors under retailer's license
 Dispense and serve all spirituous liquors under special event
 Split premise between special event and retail location

(If **not** using retail license, submit a letter of agreement from the agent/owner of the licensed premise to suspend the license during the event. If the special event is only using a portion of premise, agent/owner will need to suspend that portion of the premise.)

SECTION 6 What is the purpose of this event? On-site consumption Off-site (auction) Both

SECTION 7 Location of the Event: 13720 W. Thomas Rd. (St. Thomas Aquinas Church)
 Address of Location: 13720 W. Thomas Rd Avondale Maricopa Az 85392
 Street City COUNTY State Zip

SECTION 8 Will this be stacked with a wine festival/craft distiller festival? Yes No

SECTION 9 Applicant must be a member of the qualifying organization and authorized by an Officer, Director or Chairperson of the Organization named in Section 1. (Authorizing signature is required in Section 13.)

1. Applicant: Sisbarro Louis "Chip" F. _____
 Last First Middle Date of Birth

2. Applicant's mailing address: _____
 Street City State Zip

3. Applicant's home/cell phone: _____ Applicant's business phone: 623 412-5000

4. Applicant's email address: _____

SECTION 10

1. Has the applicant been convicted of a felony, or had a liquor license revoked within the last five (5) years?
 Yes No (If yes, attach explanation.)
2. How many special event licenses have been issued to this location this year? 0
 (The number cannot exceed 12 events per year; exceptions under A.R.S. §4-203.02(D).)
3. Is the organization using the services of a promoter or other person to manage the event? Yes No
 (If yes, attach a copy of the agreement.)
4. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds. The organization applying must receive 25% of the gross revenues of the special event liquor sales. Attach an additional page if necessary.

Name STAGS Wildcats Dads Club Percentage: 25%
 Address 13720 W. Thomas Rd. Avondale AZ 85392
Street City State Zip

Name St. Thomas Aquinas School Percentage: 75%
 Address 13720 W. Thomas Rd. Avondale AZ 85392
Street City State Zip

5. Please read A.R.S. § 4-203.02 Special event license; rules and R19-1-205 Requirements for a Special Event License.
Note: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.
"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT UNLESS THEY ARE IN AUCTION SEALED CONTAINERS OR THE SPECIAL EVENT LICENSE IS STACKED WITH WINE /CRAFT DISTILLERY FESTIVAL LICENSE"

6. What type of security and control measures will you take to prevent violations of liquor laws at this event?
 (List type and number of police/security personnel and type of fencing or control barriers, if applicable.)

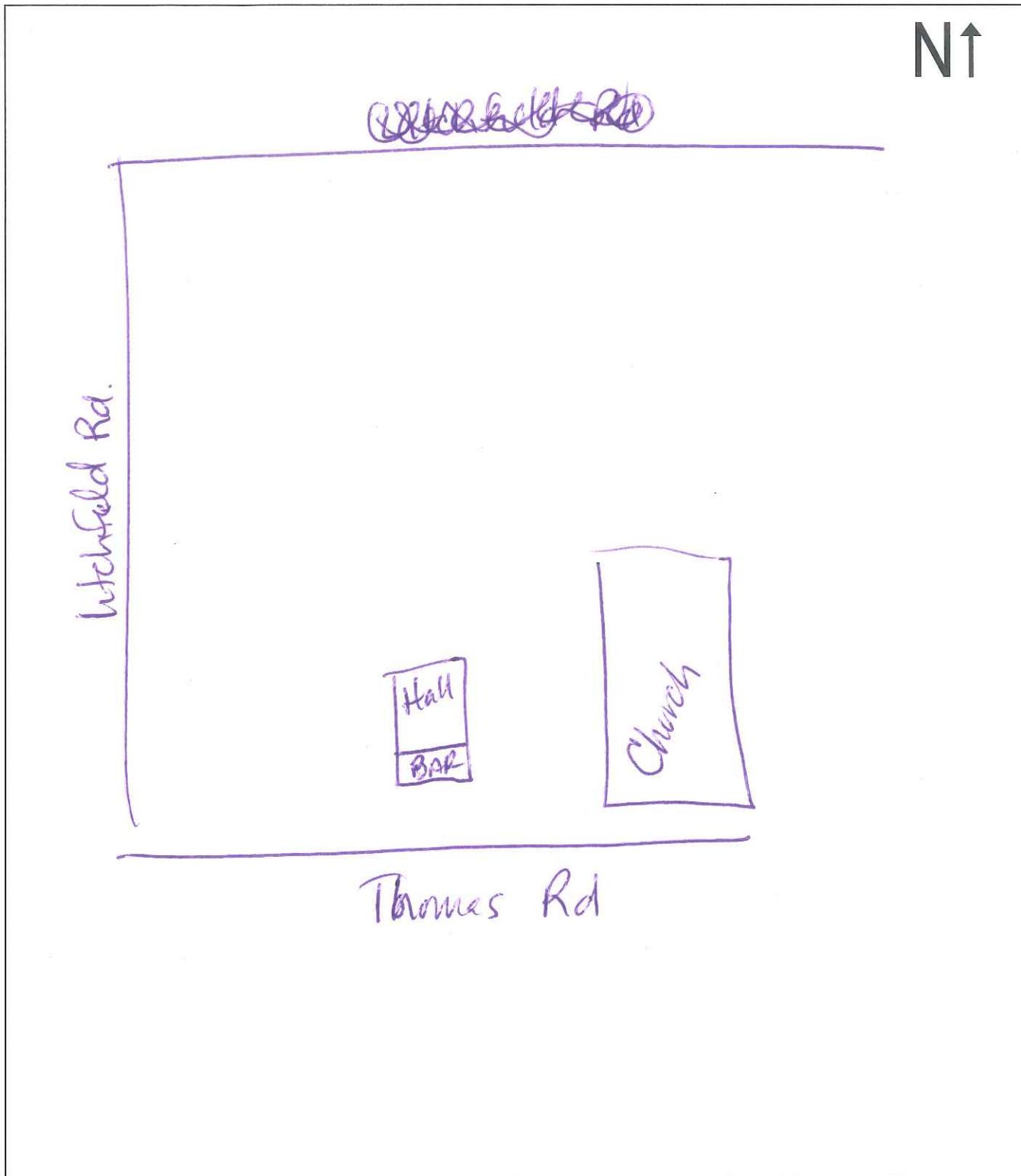
_____ Number of Police _____ Number of Security Personnel Fencing Barriers

Explanation: Event volunteers / Bar Area in a separate room

SECTION 11 Date(s) and Hours of Event. May not exceed 10 consecutive days.
 See A.R.S. § 4-244(15) and (17) for legal hours of service.

	Date	Day of Week	Event Start Time AM/PM	License End Time AM/PM
DAY 1:	<u>4/9/16</u>	<u>SAT</u>	<u>6pm</u>	<u>12 AM</u>
DAY 2:	_____	_____	_____	_____
DAY 3:	_____	_____	_____	_____
DAY 4:	_____	_____	_____	_____
DAY 5:	_____	_____	_____	_____
DAY 6:	_____	_____	_____	_____
DAY 7:	_____	_____	_____	_____
DAY 8:	_____	_____	_____	_____
DAY 9:	_____	_____	_____	_____
DAY 10:	_____	_____	_____	_____

SECTION 12 License premises diagram. The licensed premises for your special event is the area in which you are authorized to sell, dispense or serve alcoholic beverages under the provisions of your license. The following space is to be used to prepare a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades, or other control measures and security position.



SECTION 13 To be completed only by an Officer, Director or Chairperson of the organization named in Section 1.

I, Louis F. Sisbarro Jr. declare that I am an OFFICER, DIRECTOR, or CHAIRPERSON
(Print Full Name)
appointing the applicant listed in Section 9, to apply on behalf of the foregoing organization for a Special Event
Liquor License.

X [Signature] President 3/14/16 602 628-9997
(Signature) Title/ Position Date Phone #

The foregoing instrument was acknowledged before me this 14 March 2016
Day Month Year
State Arizona County of Maricopa
My Commission Expires on: May 11, 2018 [Signature] AMAPOLA ARREOLA
Date Signature of Notary Public My Comm. Expires May 11, 2018

SECTION 14 This section is to be completed only by the applicant named in Section 9.

I, Louis F. Sisbarro Jr. declare that I am the APPLICANT filing this application as
(Print Full Name)
listed in Section 9. I have read the application and the contents and all statements are true, correct and
complete.

X [Signature] President 3/14/16
(Signature) Title/ Position Date Phone #

The foregoing instrument was acknowledged before me this 14 March 2016
Day Month Year
State Arizona County of Maricopa
My Commission Expires on: May 11, 2018 [Signature] AMAPOLA ARREOLA
Date Signature of Notary Public My Comm. Expires May 11, 2018

Please contact the local governing board for additional application requirements and submission deadlines. Additional licensing fees may also be required before approval may be granted. For more information, please contact your local jurisdiction: http://www.azliquor.gov/assets/documents/homepage_docs/spec_event_links.pdf.

SECTION 15 Local Governing Body Approval Section

I, _____ recommend APPROVAL DISAPPROVAL
(Government Official) (Title)
on behalf of _____
(City, Town, County) Signature Date Phone

FOR DEPARTMENT OF LIQUOR LICENSES AND CONTROL USE ONLY

APPROVAL DISAPPROVAL BY: _____ DATE: _____

A.R.S. § 41-1030. Invalidity of rules not made according to this chapter; prohibited agency action; prohibited acts by state employees; enforcement; notice
B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.
D. THIS SECTION MAY BE ENFORCED IN A PRIVATE CIVIL ACTION AND RELIEF MAY BE AWARDED AGAINST THE STATE. THE COURT MAY AWARD REASONABLE ATTORNEY FEES, DAMAGES AND ALL FEES ASSOCIATED WITH THE LICENSE APPLICATION TO A PARTY THAT PREVAILS IN AN ACTION AGAINST THE STATE FOR A VIOLATION OF THIS SECTION.
E. A STATE EMPLOYEE MAY NOT INTENTIONALLY OR KNOWINGLY VIOLATE THIS SECTION. A VIOLATION OF THIS SECTION IS CAUSE FOR DISCIPLINARY ACTION OR DISMISSAL PURSUANT TO THE AGENCY'S ADOPTED PERSONNEL POLICY.
F. THIS SECTION DOES NOT ABROGATE THE IMMUNITY PROVIDED BY SECTION 12-820.01 OR 12-820.02.

PARKING

HALL



Thomson

CHURCH

SCHOOL

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

SPECIAL EVENT LIQUOR LICENSE

ROUTING:

- POLICE DEPARTMENT
- FIRE DEPARTMENT
- FINANCE DEPARTMENT
- DEVELOPMENT SERVICES

APPLICANT'S NAME: LOUIS SISBARRO JR.

ORGANIZATIONS NAME: STAGS WILDCATS DADS CLUB

EVENT ADDRESS: 13720 W. THOMAS RD.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

- APPROVED
- DENIED



SIGNATURE


TITLE

3/21/2016
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: APRIL 4, 2016
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 24, 2016

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

SPECIAL EVENT LIQUOR LICENSE

ROUTING:

- POLICE DEPARTMENT
 FIRE DEPARTMENT
 FINANCE DEPARTMENT
 DEVELOPMENT SERVICES

APPLICANT'S NAME: LOUIS SISBARRO JR.

ORGANIZATIONS NAME: STAGS WILDCATS DADS CLUB

EVENT ADDRESS: 13720 W. THOMAS RD.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

APPROVED
 DENIED

Valerie Russell
SIGNATURE
Fire Inspector
TITLE

3/17/14
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: APRIL 4, 2016
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 24, 2016

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

SPECIAL EVENT LIQUOR LICENSE

ROUTING:

- POLICE DEPARTMENT
 FIRE DEPARTMENT
 FINANCE DEPARTMENT
 DEVELOPMENT SERVICES

APPLICANT'S NAME: LOUIS SISBARRO JR.

ORGANIZATIONS NAME: STAGS WILDCATS DADS CLUB

EVENT ADDRESS: 13720 W. THOMAS RD.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

APPROVED

DENIED



SIGNATURE
Chief Building Officer

TITLE

3/17/16

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: APRIL 4, 2016
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 24, 2016

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

SPECIAL EVENT LIQUOR LICENSE

ROUTING:

POLICE DEPARTMENT

FIRE DEPARTMENT

FINANCE DEPARTMENT

DEVELOPMENT SERVICES

APPLICANT'S NAME: LOUIS SISBARRO JR.

ORGANIZATIONS NAME: STAGS WILDCATS DADS CLUB

EVENT ADDRESS: 13720 W. THOMAS RD.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

APPROVED

DENIED



SIGNATURE

Senior Planner

TITLE

3-21-2016

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: **APRIL 4, 2016**
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: **MARCH 24, 2016**



Development Services & Engineering Department

DATE: March 21, 2016

TO: Carmen Martinez, City Clerk

PREPARED BY: Ken Galica, Senior Planner (623) 333-4019

SUBJECT: St. Thomas Aquinas Wildcats Dad's Club Poker Tournament
Special Event Liquor License (Series 15)
13720 West Thomas Road

St. Thomas Aquinas Catholic Community is located on the northwest corner of Thomas Road and 137th Avenue. The property is developed with existing church, school, and social buildings.

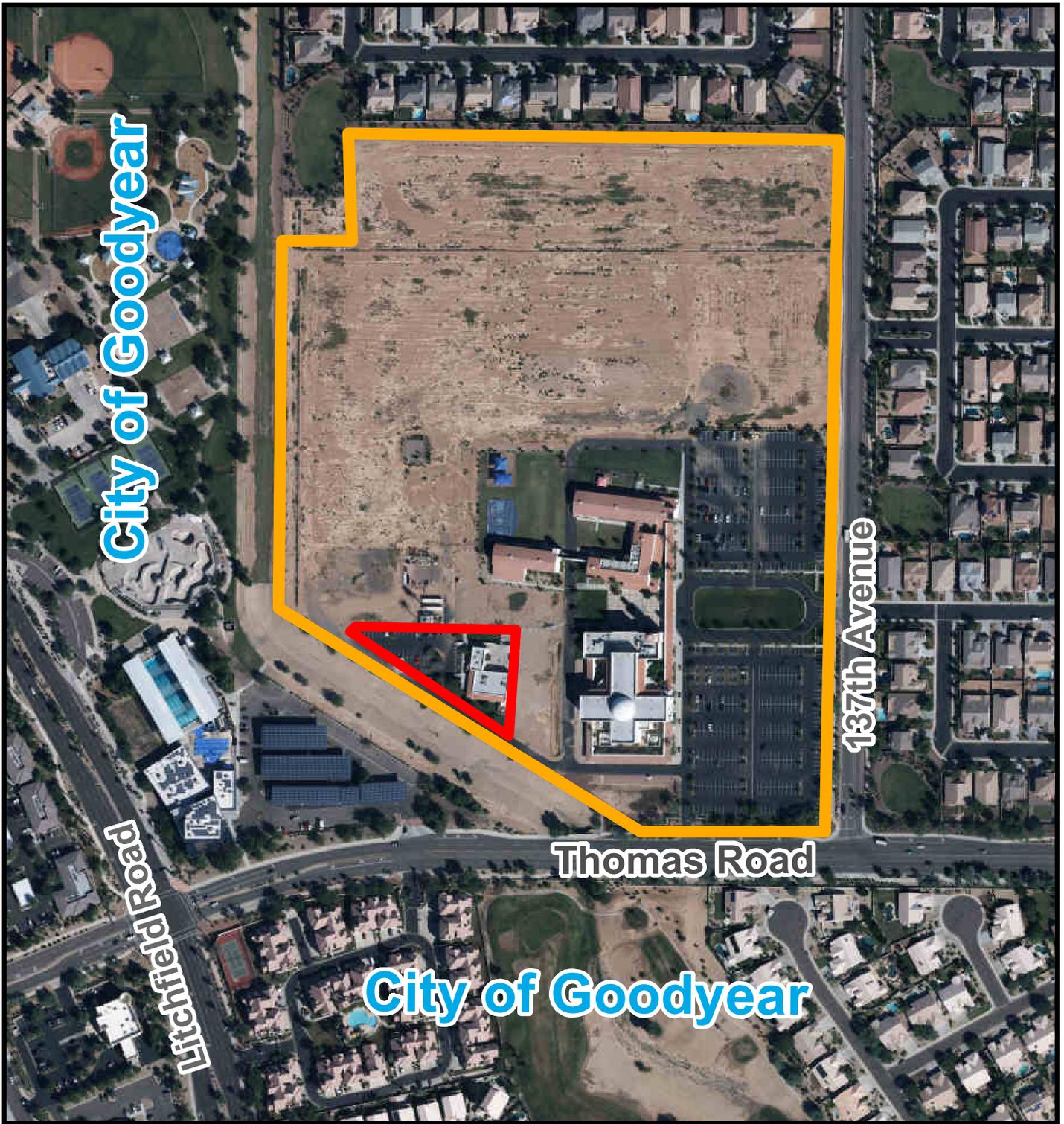
The school's dad's club is proposing to hold a poker tournament in the existing church social hall building on April 9th from 6:00 P.M. to midnight. A Series 15 special event liquor license is required to allow sale of alcohol at the event. A similar event was held at the facility in September 2015 after receiving approval of a special event liquor license.

Special event liquor licenses are not required to meet any separation requirements to nearby churches or schools.

The General Plan designates the property as Medium Density Residential and the property is zoned Planned Area Development (PAD). Use of the property for a place of worship, school, and ancillary facilities, such as church social halls, is in conformance with the General Plan and PAD zoning.

Staff recommends approval of this request.

Attachment: Aerial Photograph
Zoning Vicinity Map



Aerial Photograph

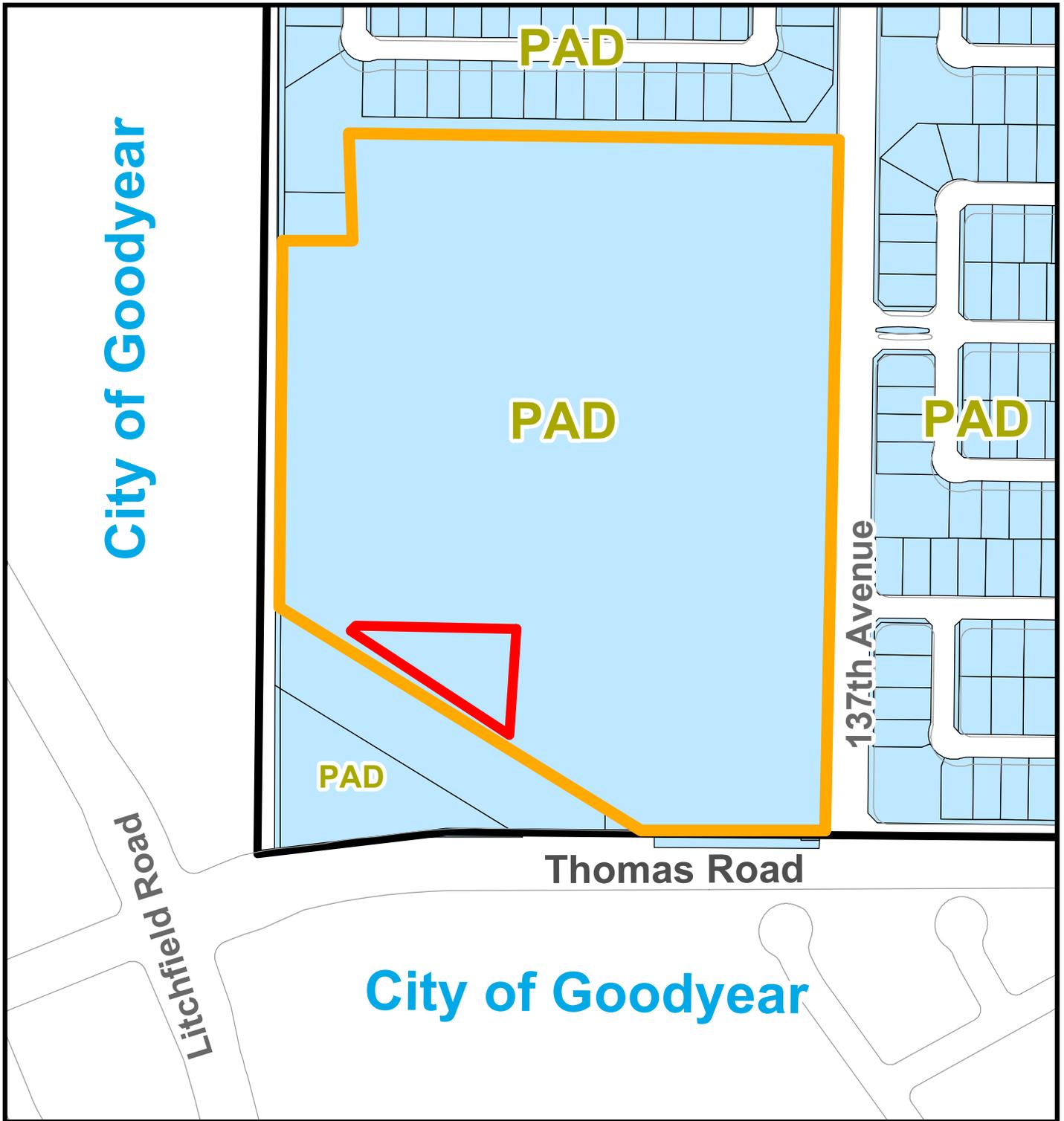


St. Thomas Aquinas Campus



Social Hall (Location of Event)





Zoning Vicinity Map



St. Thomas Aquinas Campus



Social Hall (Location of Event)





CITY COUNCIL AGENDA

SUBJECT:

Temporary Extension of Premises - Wild Willy's
Cantina

MEETING DATE:

4/4/2016

TO: Mayor and Council**FROM:** Carmen Martinez, City Clerk (623) 333-1214**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is recommending approval of a temporary extension of premises of a Series 06 Bar Liquor License at Wild Willy's Cantina located at 613 E Western Avenue in Avondale to be used in conjunction with the City sponsored Avondale Fiesta on Saturday April 30, 2016.

DISCUSSION:

Staff has received an application from Mrs. Vonda Alexander for a temporary extension of premises of her Series 06 (Bar) liquor license at Wild Willy's Cantina located at 613 E Western Avenue.

This temporary extension of premises will be used in conjunction with the city-sponsored Avondale Fiesta in Historic Avondale scheduled for Saturday, April 30 from 5:00 pm to 8:00 pm. This event will feature food, live entertainment and a salsa contest.

The Police, Fire and Planning Departments have reviewed the application and are recommending approval by the City Council.

RECOMMENDATION:

Staff is recommending approval of a temporary extension of premises of a Series 06 Bar Liquor License at Wild Willy's Cantina located at 613 E Western Avenue in Avondale to be used in conjunction with the City sponsored Avondale Fiesta on Saturday April 30, 2016.

ATTACHMENTS:**Description**

[Application](#)

[Review by Departments](#)



Arizona Department of Liquor Licenses and Control
 800 W Washington 5th Floor
 Phoenix, AZ 85007-2934
 www.azliquor.gov
 (602) 542-5141

DLLC USE ONLY

CSR: _____

Log #: _____

APPLICATION FOR EXTENSION OF PREMISES/PATIO PERMIT
 OBTAIN APPROVAL FROM LOCAL GOVERNING BOARD BEFORE SUBMITTING TO THE DEPARTMENT OF LIQUOR
 Notice: Allow 30-45 days to process permanent change of premise

- Permanent change of area of service. **A non-refundable \$50. Fee will apply.** Specific purpose for change: _____
- Temporary change (**No Fee**) for date(s) of: 4/30/16 through 4/30/16 list specific purpose for change:

Special event, Avondale Fiesta

1. Licensee's Name: Alexander Vonda Christina License#: 06070035
Last First Middle

2. Mailing address: _____
Street City State Zip Code

3. Business Name: Wild Willy's Cantina

4. Business Address: 613 E. Western Ave Avondale AZ 85323
Street City State Zip Code

5. Email Address: _____

6. Business Phone Number: 623 249 5291 Contact Phone Number: _____

7. Is extension of premises/patio complete?
 N/A Yes No If no, what is your estimated completion date? ___/___/___

8. Do you understand Arizona Liquor Laws and Regulations?
 Yes No

9. Does this extension bring your premises within 300 feet of a church or school?
 Yes No

10. Have you received approved Liquor Law Training?
 Yes No

11. What security precautions will be taken to prevent liquor violations in the extended area? Bicycle fencing
will be in place to separate underage attendees with security staff

12. **IMPORTANT:** Attach the revised floor plan, clearly depicting your licensed premise along with the new extended area outlined in black marker or ink, **if the extended area is not outlined and marked "extension" we cannot accept the application.**

W

Barrier Exemption: an exception to the requirement of barriers surrounding a patio/outdoor serving area may be requested. Barrier exemptions are granted based on public safety, pedestrian traffic, and other factors unique to a licensed premise. List specific reasons for exemption:

Approval Disapproval by DLLC: _____ Date: ____/____/____

Notary

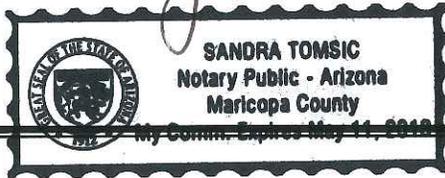
I, (Print Full Name) VONDA C. ALEXANDER hereby declare that I am a **CONTROLLING PERSON/ AGENT** filing this notification. I have read this document and the contents and all statements are true, correct and complete.

X (Signature) Vonda C. Alexander
Controlling Person / Agent

State of Arizona County of Maricopa
the foregoing instrument was acknowledged before me this

7th of March 2016
Day Month Year

My commission expires on: May 11, 2018



Sandra Tomsic
Signature of NOTARY PUBLIC

GOVERNING BOARD

After completion, and **BEFORE submitting to the Department of Liquor**, please take this application to your local Board of Supervisors, City Council or Designate for their recommendation. This recommendation is not binding on the Department of Liquor.

This change in premises is recommended by the local Board of Supervisors, City Council or Designate:

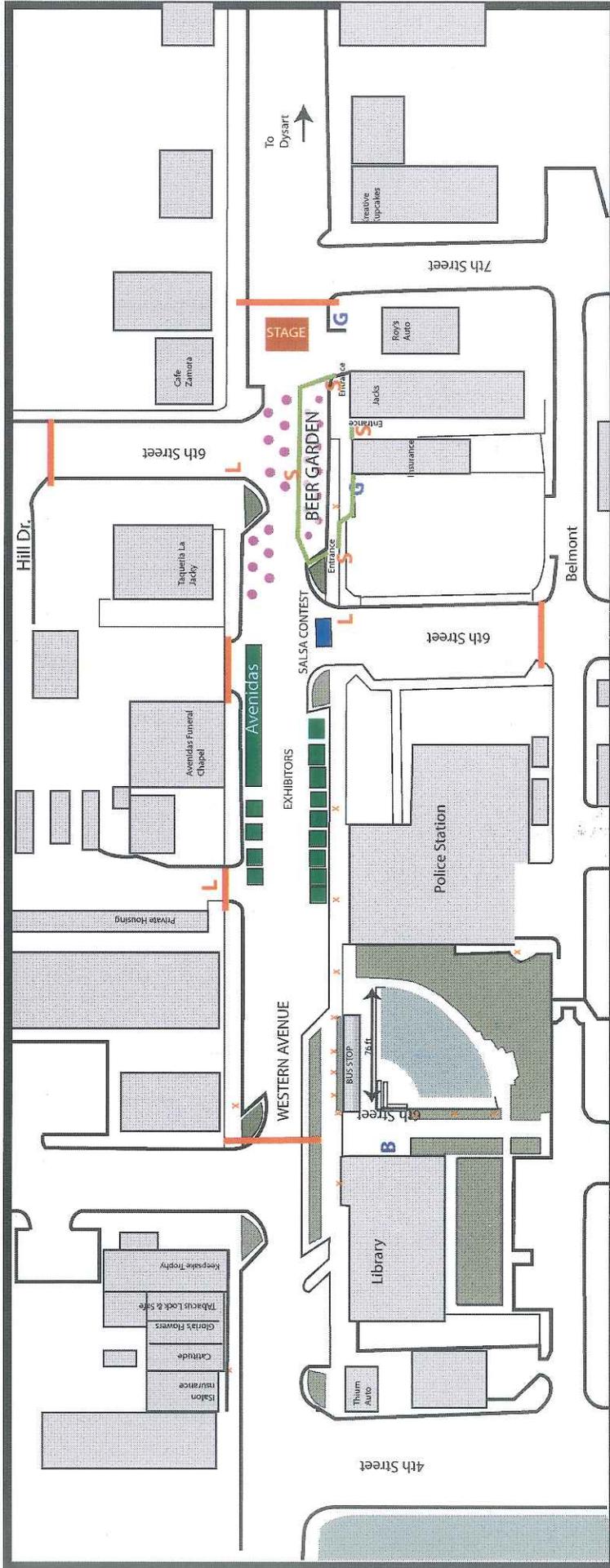
Authorized Signature Title Agency Date

DLLC USE ONLY

Investigation Recommendation: Approval Disapproval by: _____ Date: ____/____/____

Director Signature required for Disapprovals: _____ Date: ____/____/____

Avondale Fiesta - April 30, 2016
Event Layout
 Updated: 3/3/16



- Exhibitor Booth
- G Generator
- L Light Tower
- Bicycle Fencing - liquor perimeter
- Street Closure



April 30, 2016 – Avondale Fiesta event

Beer Garden:

- 3 Entrances for the beer garden: Southside, Eastside and Westside of the beer garden.
- Security/PD (**S** on map) will be stationed at each entrance and one in the front of the beer garden along the stage side. Security will be carding at each entrance and providing wrist bands to all who are over 21.
- 12- high top tables will be provided (purple circles)
- 4' high fence (green line) around the garden area
- 1 mobile bar set (blue box) up in the garden area along the south side.
- Beer Garden hours 5pm-8pm

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

EXTENSION OF PREMISES/PATIO PERMIT

ROUTING:

- POLICE DEPARTMENT
 FIRE DEPARTMENT
 FINANCE DEPARTMENT
 DEVELOPMENT SERVICES

APPLICANT'S NAME: VONDA CHRISTINA ALEXANDER

BUSINESS NAME: WILD WILLY'S CANTINA

EVENT ADDRESS: 613 E. WESTERN AVE.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85323

PURPOSE OF EVENT: CINCO DE MAYO CELEBRATION----AVONDALE FIESTA

DEPARTMENTAL COMMENTS:

APPROVED
 DENIED



SIGNATURE
Police Chief

TITLE

3/7/16

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MARCH 21, 2016
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 17, 2016

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

EXTENSION OF PREMISES/PATIO PERMIT

ROUTING:

POLICE DEPARTMENT

FIRE DEPARTMENT

FINANCE DEPARTMENT

DEVELOPMENT SERVICES

APPLICANT'S NAME: VONDA CHRISTINA ALEXANDER

BUSINESS NAME: WILD WILLY'S CANTINA

EVENT ADDRESS: 613 E. WESTERN AVE.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85323

PURPOSE OF EVENT: CINCO DE MAYO CELEBRATION----AVONDALE FIESTA

DEPARTMENTAL COMMENTS:

APPROVED
 DENIED


SIGNATURE
Fire Inspector
TITLE

3/21/16
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: **APRIL 4, 2016**
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: **MARCH 24, 2016**



Aspiring. Achieving. Accelerating.

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

EXTENSION OF PREMISES/PATIO PERMIT

ROUTING:

POLICE DEPARTMENT

FIRE DEPARTMENT

FINANCE DEPARTMENT

DEVELOPMENT SERVICES



APPLICANT'S NAME: VONDA CHRISTINA ALEXANDER

BUSINESS NAME: WILD WILLY'S CANTINA

EVENT ADDRESS: 613 E. WESTERN AVE.

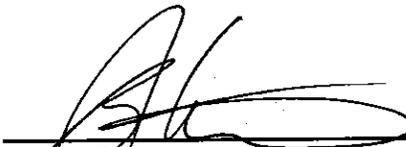
CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85323

PURPOSE OF EVENT: CINCO DE MAYO CELEBRATION----AVONDALE FIESTA

DEPARTMENTAL COMMENTS:

APPROVED

DENIED



SIGNATURE
Chief Building Official

TITLE

3/8/16
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MARCH 21, 2016
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 17, 2016**

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

EXTENSION OF PREMISES/PATIO PERMIT

ROUTING:

POLICE DEPARTMENT

FIRE DEPARTMENT

FINANCE DEPARTMENT

DEVELOPMENT SERVICES

APPLICANT'S NAME: VONDA CHRISTINA ALEXANDER

BUSINESS NAME: WILD WILLY'S CANTINA

EVENT ADDRESS: 613 E. WESTERN AVE.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85323

PURPOSE OF EVENT: CINCO DE MAYO CELEBRATION----AVONDALE FIESTA

DEPARTMENTAL COMMENTS:

APPROVED

DENIED



SIGNATURE

Senior Planner

TITLE

3-8-16

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: **MARCH 21, 2016**
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: **MARCH 17, 2016**



Development Services & Engineering Department

DATE: March 8, 2016

TO: Carmen Martinez, City Clerk

PREPARED BY: Ken Galica, Senior Planner (623) 333-4019

SUBJECT: Liquor License - Temporary Extension of Premises – Wild Willy’s Cantina
Avondale Fiesta Cinco de Mayo Event
613 East Western Avenue

The City is organizing an event, “Avondale Fiesta”, to celebrate the upcoming Cinco de Mayo holiday. The event, which will include food and art vendors, a salsa contest, and live entertainment, will take place April 30, 2016 on Western Avenue, which will be closed to vehicle traffic between 5th Street and 7th Street. Wild Willy’s Cantina, a bar located at 613 East Western Avenue within the event zone, has requested permission to use the sidewalk and angled parking spaces in front of their establishment for a beer garden to serve patrons of the event from 5:00 P.M. to 8:00 P.M. Temporary fencing will enclose the outdoor areas where alcohol will be served.

Wild Willy’s Cantina holds a valid Arizona Liquor License that allows for the sale of beer, wine, and liquor to patrons for consumption on the premises. A Temporary Extension of Premises is required to allow for beer sales and consumption in the outdoor beer garden area in conjunction with the special event. The requested Temporary Extension of Premises would be valid only on the day of the event during the hours noted above.

Temporary Extension of Premises requests are exempt from the State of Arizona’s 300-foot separation requirement from churches, schools, or fenced school recreational areas.

The General Plan designates the property as Historic Avondale District and the property is zoned OTAB (Old Town Avondale Business). Special events may occur on any property irrespective of General Plan designation or zoning.

Staff recommends approval of this request.

Attachment: Aerial Photograph
Zoning Vicinity Map



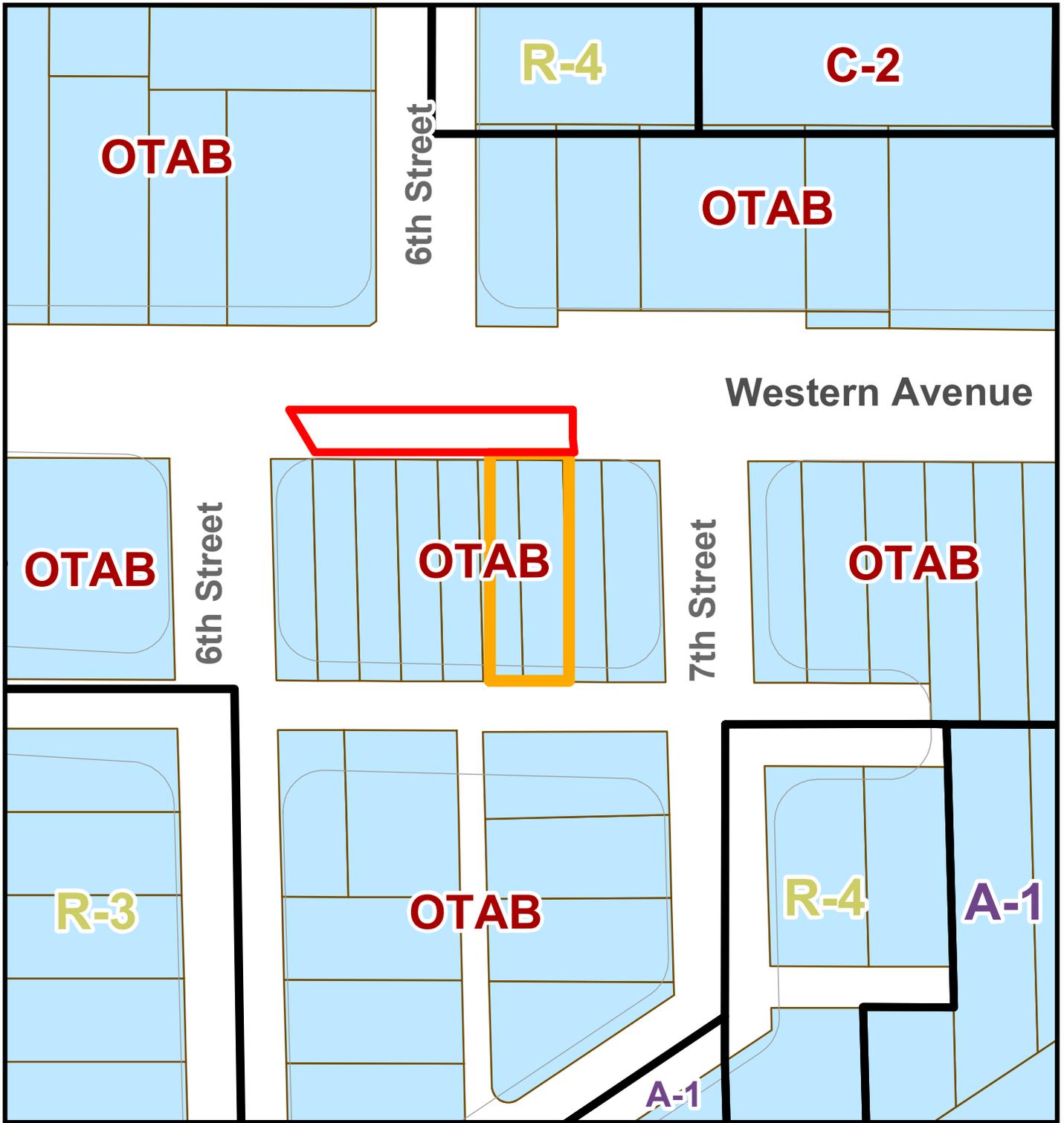
Aerial Photograph



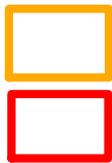
Wild Willy's Cantina

Proposed Temporary Extension of Premises





Zoning Vicinity Map



Wild Willy's Cantina

Proposed Temporary Extension of Premises



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

EXTENSION OF PREMISES/PATIO PERMIT

ROUTING:

POLICE DEPARTMENT

FIRE DEPARTMENT

FINANCE DEPARTMENT

DEVELOPMENT SERVICES

APPLICANT'S NAME: VONDA CHRISTINA ALEXANDER

BUSINESS NAME: WILD WILLY'S CANTINA

EVENT ADDRESS: 613 E. WESTERN AVE.

CITY: AVONDALE **STATE:** AZ. **ZIP CODE:** 85323

PURPOSE OF EVENT: CINCO DE MAYO CELEBRATION---AVONDALE FIESTA

DEPARTMENTAL COMMENTS:

APPROVED

DENIED



SIGNATURE
Tax Audit Supervisor

TITLE

3/8/2016

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: MARCH 21, 2016
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 17, 2016



CITY COUNCIL AGENDA

SUBJECT:

Resolution 3304-416 - Adopting the Post
Employment Health Plan for the Avondale
Professional Firefighters Association

MEETING DATE:

4/4/2016

TO: Mayor and Council**FROM:** Cherlene Penilla, Human Resources Director**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff requests that the City Council adopt a resolution to approve the establishment of a Voluntary Employee Benefit Association (VEBA)/Post Employment Health Plan (PEHP) for the Avondale Professional Firefighters Association, International Association of Local 3924 and authorize the Mayor or City Manager and City Clerk to execute the documents related to this agreement.

BACKGROUND:

In accordance with the negotiated Fire Memorandum of Understanding (MOU) approved by Council on February 16, 2016, for fiscal 2016/2017 through 2017/2018, the City agreed to establish a Voluntary Employee Benefit Association (VEBA)/Post Employment Health Plan (PEHP) for the Avondale Fire Association.

DISCUSSION:

A PEHP is a tax exempt 501(c)(9) VEBA Trust. The PEHP helps pay for qualified medical expenses in retirement. Qualified medical expenses are defined by the Internal Revenue Code under section 213 (d). An example of qualified medical expenses include: health insurance and Medicare Part-B premiums, Medicare supplemental insurance premiums, qualified long term care premiums and out-of-pocket medical expenses such as prescription drugs and doctor co-pays.

The VEBA/PEHP allows each eligible Fire Association member to contribute pre-tax funds into the plan. Each eligible member under the MOU for fiscal years 2016/2017 through 2017/2018 is required to contribute 1.5% of their gross earnings per pay period into the plan. Additionally, eligible members may make contributions to the VEBA/PEHP with a portion of earned vacation and sick leave upon separation pre-retirement, or at retirement.

BUDGET IMPACT:

The City's PEHP is funded through mandatory employee contributions. The City is not making a contribution on the employee's behalf. The only costs to the City are a per member annual fee of \$2.00 per member. This is a mandatory requirement under the Affordable Care Act (ACA). Under the ACA the employer is required to pay this fee and it cannot be passed on as a cost to the employee. There are currently 64 association members in the Avondale Professional Firefighters Association, International Association of Local 3924. This would result in a cost to the City of Avondale of \$128.00/year.

RECOMMENDATION:

Staff recommends that the City Council approves the establishment of a Voluntary Employee Benefit Association (VEBA)/Post Employment Health Plan (PEHP) for the Avondale Professional Firefighters Association, International Association of Local 3924 and authorizes the Mayor or City Manager and City Clerk to execute the documents related to this agreement.

ATTACHMENTS:**Description**

[Resolution 3304-416](#)

RESOLUTION NO. 3304-416

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ADOPTING THE POST EMPLOYMENT HEALTH PLAN FOR THE CITY OF AVONDALE PROFESSIONAL FIREFIGHTERS ASSOCIATION AND APPROVING A PARTICIPATION AGREEMENT WITH NATIONWIDE RETIREMENT SOLUTIONS.

WHEREAS, the City of Avondale (the “City”) desires to establish a post-employment health plan (“PEHP”) for members of the Avondale Professional Firefighters Association, International Association of Local 3924 (the “Eligible Employee(s)”), pursuant to Section 501(c)(9) of the Internal Revenue Code permitting such plans; and

WHEREAS, a PEHP may be funded with employer contributions, mandatory Eligible Employee contributions or combination of both on behalf of the Eligible Employees in a manner permitted under the PEHP; and

WHEREAS, under the PEHP program, Nationwide Retirement Solutions, Inc. (“NRS”) will provide administrative services in exchange for a fee as agreed upon by the City and NRS; and

WHEREAS, the Mayor and Council of the City of Avondale (“City Council”) desire to adopt a PEHP on behalf of the Eligible Employees of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Post Employment Health Plan (the “Plan”) for Eligible Employees is hereby adopted in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. The Participation Agreement authorizing Nationwide Retirement Solutions, Inc. to act as the Administrator of the Plan (the “Agreement”) is hereby approved in substantially the form and substance attached hereto as Exhibit B and incorporated herein by reference.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, April 4, 2016.

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 3304-416

[Plan]

See following pages.

**The Post Employment Health Plan
for Public Employees**

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ARTICLE I
DEFINITIONS

As used in this Plan, and except as otherwise provided herein, the following terms shall have the meaning hereinafter set forth:

- 1.1. **"Account"** means an account established for a Participant or Eligible Employee pursuant to Section 6.1 hereof.
- 1.2. **"Administrator"** means the person or entity designated by the Plan as possessing authority to manage the operation and administration of the Plan in accordance with the Plan document adopted by the Employer. The Administrator shall be Nationwide Retirement Solutions, Inc., its successors and assigns (NRS) unless and until NRS resigns or is removed by the Advisory Committee representatives (as defined in the Trust Agreement) in accordance with Article 8.
- 1.3. **"Advisory Committee"** means a group made up of one representative of each participating employee group and one representative for each participating employer, participating in the associated Trust evidenced by the Trust Agreement issued to the Employer by the Administrator. The employee and the employer representative shall not be the same individual. Representatives of the employee groups are referred to as Employee Advisory Committee members. Representatives of Employers are referred to as Employer Advisory Committee members.
- 1.4. **"Association"** refers to the National Association of Police Organizations.
- 1.5. **"Benefit"** means any payment made pursuant to Article 5 hereof.
- 1.6. **"Code"** means the Internal Revenue Code of 1986, as amended from time to time.
- 1.7. **"Contribution"** means any contribution made to the Plan pursuant to Article 4 hereof.
- 1.8. **"Dependent"** means the Participant's spouse or any person who, in relation to the Participant, satisfies the requirements under Code Section 152(a).
- 1.9. **"Effective Date"** means the date on which the fully executed Participation Agreement is processed by NRS.
- 1.10. **"Eligible Employee"** means a current employee of the employer who receives contributions under the Plan on his or her behalf.
- 1.11. **"Employee"** means an individual who is employed by the Employer.
- 1.12. **"Employer"** means a state or local government or political subdivision thereof in that adopts the Plan by entering into a Participation Agreement with the Administrator.
- 1.13. **"Entry Date"** means the date the Employer makes the first contribution to the Plan on behalf of such Eligible Employee.
- 1.14. **"Health Care Insurance Premium"** means any amount used to purchase insurance coverage for health benefits, hospitalization, or other medical care as defined in Code Section 213(d)(1).
- 1.15. **"Mandatory Employee Contribution"** means Eligible Employee contributions which are to be made as a condition of employment with the Employer and required to be made under terms of the Employer's Participation Agreement. Such contributions shall be picked up by the Employer and are deemed to be employer contributions and are not taxable income to the employee.
- 1.16. **"Participant"** means a former Employee, or the surviving Dependents thereof, who has an Account under the Plan and is eligible to receive distributions under the Plan or who may receive contributions under the Plan on his or her behalf.
- 1.17. **"Participation Agreement"** means the agreement between the Employer and the Administrator by which the Employer adopts the Plan, which sets forth the responsibilities of the Administrator, and

the terms of the Employer's adoption of the Plan, including: (a) the Employer's rate of contribution to the Plan, and (b) the Employees of the Employer who are eligible to receive contributions and participate in the Plan.

- 1.18. **"Plan"** means The Post Employment Health Plan for Public Employees, as set forth in this document.
- 1.19. **"Plan Year"** means the calendar year.
- 1.20. **"Post-Employment Health Benefit"** means a payment made pursuant to Section 5.1 hereof.
- 1.21. **"Qualifying Medical Care Expenses"** means those expenses incurred solely for "medical care," as defined in Code Section 213(d)(1), rendered to the Participant or his Dependents from the time the Participant is an Eligible Employee entitled to receive a contribution under the Plan.
- 1.22. **"Trust Agreement"** means the agreement described in Article 2 hereof, establishing the Trust for The Post Employment Health Plan for Public Employees.
- 1.23. **"Trust Fund"** means all money and assets held by the Trust for the Post Employment Health Plan for Public Employees, and all earnings and profits thereon, less the payments made therefrom in accordance with the terms of this Plan.
- 1.24. **"Trustee"** means the Trustee, or any successor Trustee, designated in accordance with the terms of the Trust Agreement.
- 1.25. **"Valuation Date"** means each day in which the New York Stock Exchange and the Administrator's home office are open for business.

ARTICLE II

TRUST

- 2.1. **Trust Agreement.** All Contributions shall be paid into, and all Benefits provided for herein shall be paid from, the Trust Fund. The Trust Agreement shall be in such form and contain such provisions as the parties may deem appropriate, including, but not limited to, provisions with respect to the powers and authority of the Trustee, the authority of the Administrator and Trustee to amend the Trust Agreement, the authority of the Administrator to settle the accounts of the Trustee on behalf of all persons having an interest in the Trust Fund, and the authority to remove a Trustee and appoint a successor trustee. When entered into, the Trust Agreement shall form a part of the Plan, and all rights and benefits that may accrue to any person under the Plan shall be subject to all the terms and provisions of the Trust Agreement.
- 2.2. **Trust Fund.** In no event shall any part of the principal or income of the Trust Fund be paid to or reinvested in the Employer, or be used for any purpose whatsoever other than the exclusive benefit of the Participants, Eligible Employees and their Dependents and defraying the reasonable expenses of the Plan. Notwithstanding the preceding, Contributions shall be returned to the Employer only under the following circumstances:
 - a. If the Employer makes a Contribution by a mistake of fact, acknowledging such mistake of fact in writing to the Administrator and within one year of the mistaken Contribution;
 - b. If the Internal Revenue Service determines that the Trust is not tax-exempt under Code Section 501(a); or
 - c. If the Internal Revenue Service determines that the Trust has unrelated business taxable income under Code Section 512(a)(3)(E).
- 2.3. **Investment of Trust Fund.** The Trustee shall invest and reinvest the Trust Fund and the income therefrom in accordance with the terms of the Trust Agreement.

- 2.4. **Valuation of the Trust Fund.** The value of the Trust Fund shall be determined as of each Valuation Date, if applicable, as follows:
- a. The value per share of a security listed for trading on a national securities exchange shall be the closing price per share at which such security was traded on the exchange on the day as of which the value is to be determined (or, if such security was not traded on that day, on the last preceding day on which it was traded); provided, that if a security is listed for trading on two or more national securities exchanges, the national securities exchange upon which principally it is traded shall be deemed to be the only such exchange on which it is listed;
 - b. The value of any other investment shall be the fair market value thereof on the day as of which the value is to be determined, as determined by the Trustee, the Administrator or the agent of either the Trustee or Administrator; and
 - c. There shall be added/deducted from the value of the investments any income or liabilities due or accrued and properly chargeable thereto.

ARTICLE III

ELIGIBILITY TO PARTICIPATE

- 3.1. **Eligibility to Participate.** Each Employee shall become an Eligible Employee as determined by the Employer and shall be entitled to receive a contribution to the Plan as set forth in the Participation Agreement on the Entry Date coincident with or next following the later of (a) the date on which he becomes an Eligible Employee, or (b) the Effective Date of this Plan.
- 3.2. **Contributions Required for Eligible Employees.** Subject to Section 9.2, the Employer shall make Contributions on behalf of each Eligible Employee as determined by the Employer in accordance with to the terms of the Participation Agreement.
- 3.3. **Dispute as to Eligibility.** In the event of a dispute as to the eligibility of any individual to receive a contribution to the Plan, the decision of the Employer with respect to such eligibility shall be final and conclusive for all purposes.

ARTICLE IV

CONTRIBUTIONS

- 4.1. **Contributions to the Plan.** The Employer shall make contributions to the Plan on behalf of each Eligible Employee or Participant in such amount as the Employer determines and communicates to the Administrator from time to time to fund Post Employment Health Benefits.

Amounts contributed may not be used for any purpose other than as provided by Code Sections 105, 106, 501(c)(9) and applicable Treasury regulations. All Contributions shall be made in a manner which satisfies the nondiscrimination rules found in Code Section 105(h) or other applicable law, provided however that Contributions determined as a percentage of the Eligible Employee's compensation and earnings thereon shall be accounted for separately and shall be used under Section 5.1 only to reimburse Health Care Insurance Premiums.
- 4.2. **Lump sum Contributions.** If the Employer has a compensated absence policy under which all Employees accumulate compensated absence pay, it may require all or a specified portion of accumulated compensated absence benefits be contributed to the Plan. Compensated absence may include any combination of vacation pay, sick pay, or other accumulated absence pay as specified by the Employer.

- 4.3. **Mandatory Employee Contributions.** The Employer may require that all Eligible Employees contribute Mandatory Employee Contributions to the Plan as a condition of employment with the Employer. In the event Contributions are required of Eligible Employees, the Employer shall specify the amount of the Contribution either as a dollar amount or as a percentage of the Eligible Employee's compensation. Such amount or percentage shall not be subject to change on the part of the Eligible Employee, and the Eligible Employee shall not be entitled to receive such Contributions in the form of cash or other benefit. The Employer shall remit such contributions to the Trustee.
- 4.4. **Determination of Amount of Contributions.** The Trustee and the Administrator shall not be under any duty to inquire into the correctness of the Contributions paid over to the Trustee hereunder; nor shall the Trustee or Administrator be under any duty to enforce the payment of the Contributions to be made hereunder. The Eligible Employees and their bargaining unit shall have sole responsibility and duty to enforce Employer's contribution obligations.
- 4.5. **Transfers from other Health Reimbursement Arrangements.** The Plan may accept, as permitted by law, transfers of assets held in other health reimbursement arrangements including other arrangements being administered by the Administrator, provided that such assets were contributed to a plan providing permissible benefits. The Administrator may develop procedures necessary to comply with the requirements of this Section 4.5.

ARTICLE V

BENEFITS

- 5.1. **Post-Employment Health Benefits.** Upon an Eligible Employee's severance from employment with the Employer for any reason, including death, the Eligible Employee or his Dependents shall become a Participant in the Plan. Upon such time the Participant shall be entitled to be reimbursed from the Plan for Qualifying Medical Care Expenses and for Health Care Insurance Premiums incurred by the Participant or Dependents subject to the limits set forth in Section 5.3 hereof, provided that such expenses will not be taken as a deduction on the Participant's or Dependents' federal income tax return. If at any time following the Eligible Employee's severance from employment, he or she is reemployed by the Employer, the Participant shall no longer be entitled to reimbursement under the Plan until the Participant once again severs employment with the Employer. Post-Employment Health Benefits shall be funded in accordance with Article 4 hereof into the Plan from which benefits will be paid and in accordance with the Code.
- 5.2. **Notice by Employer.** The Employer shall certify to the Administrator the date of a Eligible Employee's severance from employment with the Employer. The Administrator shall rely on any such certification in determining when the Eligible Employee becomes a Participant and the extent to which a Participant or his Dependents shall be entitled to a Benefit under the Plan. In the case of an Eligible Employee's or Participant's death, the Trustee shall require proof of the Eligible Employee's or Participant's death prior to paying any Benefit to a Dependent or medical service provider on behalf of a deceased Eligible Employee under this Article 5
- 5.3. **Benefit Limits.** Any Qualifying Medical Care Expense or Health Care Insurance Premium paid in accordance with Section 5.1 hereof is limited to the Participant's respective account balance as of the Valuation Date immediately preceding the date the claim for such Benefit is submitted to the Trustee. If a claim for Benefits exceeds the account balance at such date, the Trustee will pay the claim to the extent of the account balance. If the Participant's account balance subsequently increased, the Participant must resubmit a current claim form for reimbursement.

Only claims for Qualifying Medical Care Expenses and Health Care Insurance Premium Reimbursements incurred from the time the Participant is an Eligible Employee entitled to receive a contribution hereunder will be payable under the Plan.

- 5.4. **Timing and Method of Benefit Payment.** All Benefit payments shall be made via check or direct deposit as specified by the Participant or service provider receiving payment directly on behalf of a deceased Eligible Employee and as soon as administratively practicable following the date a claim for Benefits is submitted to the Administrator.
- 5.5. **Prohibition on Alienation.** The rights of a Participant or Dependent to receive a Benefit shall not be subject to alienation or assignment, and shall not be subject to anticipation, encumbrance or claims of creditors except to the extent required by applicable law.
- 5.6. **Forfeitures.** If an Eligible Employee or Participant has no Dependents on the date notice of death is provided to the Administrator and no Dependent is identified and no request to pay Qualifying Medical Care Expenses directly to a service provider, on behalf of a deceased Eligible Employee, is received within 180 days of the date on which the Administrator was notified of an Eligible Employee or Participant's death, the balance in the Participant's account will be forfeited.
- Benefit payments for Qualifying Medical Care Expenses which, if paid, would result in discrimination in violation of Code Section 105(h), its regulations or any other applicable provision of law shall also be forfeited. A Participant's account may also be forfeited if the Administrator is unable to locate the Participant within 36 months after the Administrator sends a letter by certified U. S. mail, postage prepaid, to the Participant's last known address.
- Any amount forfeited under this Section 5.6 shall be allocated as soon as administratively practicable following, the date on which the Administrator determines that a forfeiture has occurred to the Accounts of all other Eligible Employees and Participants who (i) are (or were) employed by the Employer and (ii) have an account balance on the Valuation Date. Forfeitures shall be allocated among the Eligible Employee and Participants in accordance with procedures established by the Administrator.
- 5.7. **Designation of Beneficiaries Prohibited.** Unless otherwise permitted by law, designation of beneficiaries under the Plan is not permitted.

ARTICLE VI

ELIGIBLE EMPLOYEE AND PARTICIPANT ACCOUNTS

- 6.1. **Separate Accounts and Records.** The Administrator shall maintain separate Accounts in the name of each Eligible Employee and Participant having an interest in the Trust Fund. For all Eligible Employees or Participants with an account balance, a statement of that Eligible Employee's or Participant's Account as of the last day of each calendar quarter shall be distributed or made available within 15 days after the end of each quarter showing:
- The Eligible Employee's or Participant's account balance;
 - Contributions credited to the Eligible Employee's or Participant's Account;
 - Qualifying Medical Care Expenses and Health Care Insurance Premiums paid from the Participant's Account; and
 - Administrative fees paid from the Eligible Employee's or Participant's Account gains and losses of the Trust Fund allocated to the Eligible Employee's or Participant's Account.
- 6.2. **Valuation of Accounts.** As of each Valuation Date, all income and gains (realized and unrealized) of the Trust Fund for the period since the immediately preceding Valuation Date (or, if there is no prior Valuation Date, since the Effective Date) shall be credited to, and all losses (realized and unrealized) and expenses of the Trust Fund for such period shall be charged to, the Eligible Employee's or Participants' Accounts in proportion to their balances as of the next preceding Valuation Date (or as of the Effective Date, if there is no prior Valuation Date), provided, however, that if there has been a withdrawal from a Participant's Account since the next preceding Valuation

Date, such Participant's Account balance at the Valuation Date, rather than the next preceding Valuation Date, shall be used to allocate income, gains, losses and expenses to such Participant's Account.

6.3. Participant Transfers to another Plan.

- a. Subject to Section 6.3(b), if an Eligible Employee is no longer entitled to receive contributions from the Employer but remains employed by the Employer and as a result of such employment contributions on behalf of the Eligible Employee is required to another Voluntary Employees' Beneficiary Association (VEBA) which is established pursuant to Section 501(c)(9) and administered by the Administrator, then the Eligible Employee may elect to transfer his or her Account to the other VEBA.
- b. A transfer contemplated in Section 6.3(a) shall only be permitted if such transferred assets will be used to provide benefits similar to those provided by this Plan and the transfer does not jeopardize the tax-exempt status of the Trust.

ARTICLE VII

CLAIMS PROCEDURE

- 7.1. **Written Claims.** All claims for Benefits shall be made in writing in accordance with such procedures as the Administrator shall prescribe, including deadlines, documentation requirements and forms.
- 7.2. **Denied Claims.** If a claim for Benefits is denied in whole or in part, the Administrator shall furnish the claimant a written notice setting forth the reason for the denial, including reference to pertinent Plan provisions, describing any additional material or information that is required from the claimant and explaining why it is required, and explaining the review procedure set forth in Section 7.3 hereof. Such notice shall be given within five (5) business days of the denial.
- 7.3. **Review Procedure for Denied Claims.** Within 60 days of the written notice of the denial of any claim for Benefits, a claimant may file a written request for a review of such denial by the Administrator. Any claimant seeking review of a denied claim is required to submit comments in writing. Within 60 days after its receipt of a request for review of a denied claim, the Administrator shall render a written decision on its review which references the Plan provisions on which its decision is based.

ARTICLE VIII

ADMINISTRATION OF THE PLAN

- 8.1. **The Administrator.** The Administrator shall be NRS unless and until NRS resigns or is removed. The Administrator shall have the authority to control and manage the operation and administration of the Plan in accordance with this plan document and the responsibility of filing and distributing reports and returns with or to government agencies and Eligible Employees and Participants, and their Dependents as required under the Code and other applicable law.

The Administrator, by a written instrument, may delegate its responsibilities to control and manage the operation and administration of the Plan and the responsibility to file reports and returns.

To the extent permitted by law, the Trust shall indemnify each employee of the Administrator and any agent or person who has been appointed by the Administrator, against any liability (not reimbursed by insurance) incurred in the course of the administration of the Plan, except liability arising from his own negligence or willful misconduct.

- 8.2. **Agents.** The Trustee may employ such agents, including counsel, as it may deem advisable for the administration of the Plan. Such agents may not be Eligible Employees or Participants.

8.3. **Removal or Resignation of Administrator.** The Administrator may resign as administrator at any time by a written instrument delivered to all Advisory Committee representatives giving notice of such resignation. The Administrator may be removed, for cause relating to performance that fails to meet generally accepted standards, practices and procedures applicable to persons providing similar types of administrative services. The Administrator shall be removed for the reasons stated above via a majority vote process. Each Employee Advisory Committee representative's vote is multiplied by the number of Eligible Employee and Participants represented by that committee member and similarly the Employer Advisory Committee representative's vote is multiplied by the number of Eligible Employees and Participants covered by that Employer, for each plan participating in the relevant trust. The Advisory Committee shall remove the Administrator by a written notice delivered to the Administrator. In the event of a dispute over the execution of the duties of the Administrator, the dispute shall be subject to arbitration between the Administrator and a representative(s) established by the Advisory Committee. The Administrator shall be granted 180 days to cure any deficiencies identified by the arbitrator before any removal may be considered effective. Any notice of removal or resignation of the Administrator shall be effective 60 days after receipt by the Administrator or Advisory Committee representatives, as the case may be, or at such other time as is agreed to by the Administrator and the Advisory Committee representatives. In addition, a majority of the Advisory Committee representatives may remove the Administrator without cause during the last month of each Plan Year. If, within 60 days after notice of resignation or removal of the Administrator, the Advisory Committee representatives have not designated a successor Administrator, the Administrator may apply to any court of competent jurisdiction for the appointment of a successor Administrator.

8.4. **Successor Administrator.** The Administrator, subject to the veto right described below, may appoint a successor Administrator. The Administrator shall provide 30 days' advance notice to the Advisory Committee that it has designated a successor Administrator. Based on a majority vote, where each Employee Advisory Committee representative's vote is multiplied by the number of Eligible Employees and Participants and similarly the Employer Advisory Committee representative's vote is multiplied by the number of Participants and Eligible Employees for each plan participating in the relevant trust, is used to determine voting outcomes. If sufficient objecting votes are submitted in writing to the Administrator within 30 days after the date of the Administrator's notification mailing, the designation shall not become effective. If there is no sufficient objection, the Administrator shall deliver to the Trustee copies of: (a) a written instrument executed by the Administrator appointing such successor, and (b) a written instrument executed by the successor in which it accepts such appointment. Such instruments shall indicate their effective date.

If a vacancy in the office of Administrator occurs and the Administrator has not appointed a successor Administrator in accordance with the preceding paragraph, the Advisory Committee representatives in accordance with the voting procedures described in the preceding paragraph shall appoint a successor Administrator and shall deliver to the Trustee copies of (a) a written instrument executed by Advisory Committee representatives appointing such successor, and (b) a written instrument executed by the successor in which it accepts such appointment. Such instruments shall indicate their effective date. If the Administrator is removed by Advisory Committee representatives in accordance with Section 8.3 hereof, the written instrument removing the Administrator shall also appoint a successor Administrator. Any successor Administrator shall have all the powers and duties of the original Administrator.

8.5. **Administrative Fees.** The Administrator shall be paid from the Trust Fund an administrative fee for each Eligible Employees and Participant equal to an amount specified in the Participation Agreement between the Administrator and the Employer. Such fees shall be charged against the Eligible Employees' and Participants' Account balances.

- 8.6. **Powers of the Administrator.** The Administrator shall have all such powers as may be necessary to carry out the provisions of the Plan, and the actions taken and the decisions made by the Administrator shall be final and binding upon all parties. The powers of the Administrator shall include, but not be limited to, the following:
- a. To determine, in accordance with the plan document, all questions relating to the amount of any Benefits and all questions pertaining to claims for Benefits and procedures for claim review;
 - b. To prescribe procedures, in accordance with the plan document, to be followed by Participants in filing claims for Benefits;
 - c. To prepare and distribute information, in accordance with the plan document, explaining the Plan to Eligible Employees and Participants;
 - d. To appoint or employ individuals to assist the Administrator in the administration of the Plan and any other agents deemed advisable, including banking, legal, accounting, and actuarial counsel;
 - e. To resolve all other questions arising under the Plan, in accordance with the plan document;
 - f. To take any such further action as the Trustee shall deem advisable in the administration of the Plan in accordance with the plan document; and
 - g. To direct the Trustee to pay claims for Benefits either by issuing claims checks or by delegating the authority to issue claims checks in accordance with Section 7.1 hereof.
- 8.7. **Records.** The acts and decisions of the Administrator including such records as may pertain to the computation of Benefits of any claimant shall be duly recorded.
- 8.8. **Defect or Omission.** The Administrator shall notify the Employer of, and shall assist Employer with the cure of any defect, omission or inconsistency in this Plan for correction.
- 8.9. **Liability of Administrator.** Except for its own negligence or willful misconduct, neither any Employee of the Administrator nor any agent or other person appointed by the Administrator shall be liable to anyone for any act or omission in the course of the administration of the Plan.

ARTICLE IX

AMENDMENT AND TERMINATION

- 9.1. **Amendments.** The Administrator reserves the right to amend this Plan at any time in such manner as it may be necessary or advisable in order to qualify and retain the qualification of the Trust Fund as a voluntary employees' beneficiary association (Association) in accordance with Code section 501(c)(9) or to comply with applicable law upon 60 days written notice to the Employer. Any such amendment may, by its terms, be retroactive; and to amend, alter, modify or suspend, in whole or in part, any provision or provisions of this Plan at any time, retroactively or otherwise, by written notice to the Trustee, the Employers and the Association representatives. In any event, no such amendment shall:
- a. increase the duties or obligations of the Trustee or Employer without their written consent;
 - b. decrease any Participant or Eligible Employee's Account balance; or
 - c. cause or permit any portion of the corpus or income of the Trust to revert to, or become the property of, or be used for the benefit of the Employer, or divert any portion of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants, Eligible Employees and their Dependents.
- 9.2. **Termination and Discontinuance of Contributions.** The Employer may terminate or discontinue contributions to the Plan at any time by notice to the Administrator and Trustee. Upon termination of the Plan and subject to Section 9.3, the Administrator shall maintain the Accounts of each

Participant and Eligible Employee who is or was an Employee of such Employer, and shall pay Benefits to each such Participant in accordance with the terms of the Plan or as permitted by law. Expenses of the Trust fund and administrative fees shall be charged against such Participants' and Eligible Employees' Accounts for as long as such Accounts are maintained by the Administrator.

- 9.3. **Employer Transfers to another Plan.** The Employer may request that the assets held in the Plan be transferred to another Association or Administrator provided that the Employer provides evidence to the Administrator that the following conditions are met:
- a. The transferee Association is exempt under Code Section 501(c)(9);
 - b. The transferred assets will be used to provide similar benefits;
 - c. The participants of each trust Association share an employment-related bond;
 - d. The transfer is not used to avoid the applicable requirements of Code Section 501(c)(9) and the regulations thereunder that otherwise would apply to each association;
 - e. The receiving Association or Administrator has agreed to receive the transfer; and
 - f. The Employer, in writing, holds harmless the Administrator for acting on Employer's instructions to transfer the Plan to another Association or Administrator.

When, to the satisfaction of the Administrator, the Employer has produced evidence sufficient to satisfy the conditions of this Section 9.3, the Administrator will transfer the assets of the Plan to the other Association or Administrator as soon as administratively practical. In no event shall such transfer occur later than one hundred and eighty (180) days following the Administrator's receipt of the sufficient evidence contemplated by this Section. Additionally, the Administrator may develop procedures in connection with this Section 9.3 including, without limitation, what documentation is necessary to evidence satisfaction of the requirements of this section. Expenses of providing such evidence shall be paid by the Employer. In the event a transfer of the Plan assets is authorized, the Administrator may retain sufficient funds for the satisfaction of all current reported claims.

ARTICLE X

MISCELLANEOUS

- 10.1. **Rights of All Interested Parties Determined by Terms of the Plan.** The Plan and Trust are voluntarily entered into by the Employer. The Trust shall be the sole source of Benefits provided under the Plan, and in no event shall the Administrator or the Employer be liable or responsible therefore. The Plan shall be binding upon all parties thereto and all Participants and Eligible Employees, and upon their respective heirs, executors, administrators, successors, and assigns, and upon all persons having or claiming to have any interest of any kind or nature under the Plan or the Trust.
- 10.2. **No Employment Rights Created.** The creation and maintenance of the Plan shall not confer any right to continued employment on any Employee, and all Employees shall remain subject to discharge to the same extent as if the Plan had never been established.
- 10.3. **Number and Gender.** Where necessary or appropriate to the meaning hereof, the singular shall be deemed to include the plural, the plural to include the singular, the masculine to include the feminine and neuter, the feminine to include the masculine and neuter, and the neuter to include the masculine and feminine.
- 10.4. **Notice to Employees.** Notice of the existence and the provisions of this Plan and amendments thereto shall be communicated by the Employer to all persons who are, or who become Eligible Employees or Participants.

- 10.5. **Notification of Address.** Each person eligible to receive Benefits shall notify the Administrator in writing of his address and any change of address thereafter. Any communication, statement or notice addressed to such person at his last address as filed with the Administrator (or if no address was filed with the Administrator, then his last address shown by the Employer's payroll records) will be binding upon such person for all purposes of this Plan, and neither the Employer nor the Administrator shall be obligated to search for or ascertain the whereabouts of any such person.
- 10.6. **Headings.** The headings and subheadings in this Plan are inserted for convenience and reference only and are not intended to be used in construing this Plan or any provision hereof.
- 10.7. **Governing Law.** This Plan shall be construed according to the law of the State of Ohio and applicable Federal Law and all provisions hereof shall be administered according to the law of the State of Ohio and applicable federal law.

IN WITNESS WHEREOF, the undersigned has executed this Plan to become effective the ____ day of _____, 20____ for the:

(Plan Name)

By: _____
(Signature)

(Printed Name)

(Title)

EXHIBIT B
TO
RESOLUTION NO. 3304-416

[Agreement]

See following pages.

**The Trust for the Post Employment Health Plans
for Non-Collectively Bargained Public Employees – 3**

Effective January 17, 1997
Amended and Restated as of November 14, 2014
Effective December 15, 2015

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**AMENDED AND RESTATED
TRUST AGREEMENT**

**The Trust for the Post Employment Health Plan for
Non-Collectively Bargained Public Employees – 3**

This Amended and Restated Trust Agreement ("Agreement") is made this 14th day of November, 2014 by and between the National Association of Police Organizations ("NAPO"), duly organized and existing under the laws of the State of New York or its successor, (the "Grantor") on behalf of the "Association" of state and local government employees in California, Nevada, Arizona, and Nationwide Trust Company, FSB a division of Nationwide Bank (the "Trustee").

WITNESSETH:

WHEREAS, state and local government Employers in California, Nevada, Arizona desire to establish The Post Employment Health Plan for Non-Collectively Bargained Public Employees (the "Plan"), a retiree only welfare benefit plan that provides post employment health benefits for employees of state and local government employers in California, Nevada, Arizona, who are not covered by collective bargaining agreements; and

WHEREAS, those benefits are to be funded through a trust (the "Trust") which is intended to qualify as a voluntary employees' beneficiary association within the meaning of Section 501(c)(9) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, Nationwide Retirement Solutions, Incorporated, a Delaware corporation, the "Corporation" is designated as the Administrator of the Plan, and Nationwide Trust Company, FSB a division of Nationwide Bank as Trustee; and

WHEREAS, the Trustee has agreed to hold and administer the money and property contributed to the Trust, and the earnings thereon, in accordance with the terms set forth in this Agreement; and

WHEREAS, the Employer intends that neither the contributions to the Trust, nor the earnings thereon, will be treated as unrelated business taxable income to the Trust under Sections 512(a)(3)(E) of the Code;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

DEFINITIONS

The following terms as used in this Agreement have the meanings indicated below unless the context requires otherwise:

- 1.1. "Administrator" means the person or entity designated by the Plan as possessing authority to manage the operation and administration of the Plan in accordance with the Plan document adopted by the Employer. The Administrator shall be the Corporation unless and until the Corporation resigns or is removed by the Advisory Committee, as defined in Section 1.2, in accordance with the terms of the Plan.
- 1.2. "Advisory Committee" means a group made up of one representative of each participating employee group and one representative for each participating employer, which shall not be the same individual. Representatives of the employee groups are referred to as Employee Advisory Committee members. Representatives of Employers are referred to as Employer Advisory Committee members.
- 1.3. "Association" refers to the National Association of Police Organizations.
- 1.4. "Code" means the Internal Revenue Code of 1986, as amended and the regulations thereunder.
- 1.5. "Corporation" means Nationwide Retirement Solutions, Incorporated, its successors and assigns.

- 1.6. "Eligible Employee" means a current employee of the Employer who receives contributions under the Plan on his or her behalf.
- 1.7. "Employers" means state and local governments or political subdivisions thereof in California, Nevada, Arizona that have entered into Participation Agreements with the Administrator.
- 1.8. "Former Employee" means an Eligible Employee who severed employment with the Employer and has not been rehired by such Employer.
- 1.9. "Fund" means all money and assets held by the Trust, and all earnings and profits thereon, less the payments made therefrom in accordance with the terms of the Plan.
- 1.10. "Participant" means a Former Employee, or such Former Employee's surviving spouse or dependents, as defined in Code Section 152, who has an account under the Plan or is eligible to receive reimbursements under the Plan.
- 1.11. "Participation Agreement" means an agreement between an Employer and the Administrator under which the Employer adopts the Plan on behalf of its Eligible Employees.
- 1.12. "Plan" means The Post Employment Health Plan for Non-Collectively Bargained Public Employees – 3.
- 1.13. "Trust" means the Trust for The Post Employment Health Plan for Non-Collectively Bargained Public Employees – 3, as set forth in this document.
- 1.14. "Valuation Date" means each day in which the New York Stock Exchange and the Corporation's home office are open for business.
- 1.15. "VEBA" means a voluntary employees' beneficiary association.
- 1.16. "Voting Process" means each Employee Advisory Committee representative's vote is multiplied by the number of Eligible Employees and Participants represented by that committee member and similarly the Employer Advisory Committee representative's vote is multiplied by the number of Eligible Employees and Participants associated with that Employer, for each plan participating in the relevant Trust.

ARTICLE II

ESTABLISHMENT OF TRUST

- 2.1. Name. This Trust shall be known as The Trust for The Post Employment Health Plan for Non-Collectively Bargained Public Employees – 3.
- 2.2. Establishment of Trust. The Association hereby establishes with the Trustee a Trust consisting of such monies and assets acceptable to the Trustee as shall from time to time hereafter be paid or delivered to the Trustee by or on behalf of the Employers.
- 2.3. Purpose of Trust.
 - a. The Fund shall be held by the Trustee in trust and dealt with in accordance with the provisions of this Agreement. This Trust is the funding medium of a VEBA within the meaning of Code Section 501(c)(9), and the Fund shall be used solely for, and not diverted from, the exclusive purposes of providing benefits qualifying under Code Section 501(c)(9) to Participants and defraying reasonable expenses of administering the Plan and the Fund. Although the Trust shall fund the benefits under the Plan, the Trust may later fund other benefits which are permissible under Code Section 501(c)(9).
 - b. Notwithstanding Section 2.3(a) hereof, the Trustee shall return contributions if the Plan permits the return of contributions under one of the following circumstances: (i) the contribution is made by a mistake of fact; (ii) the Internal Revenue Service (hereinafter "IRS") determines that the

Trust is not tax exempt pursuant to Code Section 501(a); or (iii) the IRS determines that the Trust has unrelated business taxable income pursuant to Code Section 512(a)(3)(E).

Any contribution that is made by a mistake of fact shall be returned within one year from the date it was paid to the Trustee and not at any time thereafter. If the IRS determines that: (i) the Trust is not tax exempt pursuant to Code Section 501(a), or (ii) the Trust has unrelated business taxable income pursuant to Code Section 512(a)(3)(E), all contributions made to the Trust in the year for which such determination is made shall be returned within one year after the date that the IRS so determines, and not at any time thereafter. All contributions to the Trust are conditioned upon the contributions not being treated as unrelated business taxable income of the Trust pursuant to Code Section 512(a)(3)(E) and upon the tax exempt status of the Trust pursuant to Code Section 501(a).

- 2.4. Tax Qualification Amendments. Upon execution of this Agreement, the Trustee shall proceed to make application to the IRS for a favorable ruling as to the tax exempt status of the Trust pursuant to Code Section 501(a). Amendments may be made to this Agreement retroactively to the effective date of this Agreement, in accordance with the terms of this Agreement, if such amendments are deemed advisable in order to secure the favorable tax ruling.
- 2.5. Expenses of Trust. The Trustee shall pay expenses of the Trust directly from the Fund. It is expressly agreed that expenses of the Trust will include any and all amounts paid by the Trustee under any agreement with a bank or financial institution relating to the maintenance of a lockbox and the providing of lockbox services.
- 2.6. Compensation of Trustee. The Trustee shall receive compensation for its services as trustee in accordance with the schedule agreed upon from time to time between the Administrator and the Trustee.
- 2.7. Taxes.
 - a. All taxes that may be levied or assessed upon or in respect of the Fund shall be paid from the Fund unless they are paid by the Administrator. The Trustee shall promptly notify the Administrator of any proposed or final assessments of taxes. Within fifteen (15) days after receiving the above notice from the Trustee, the Administrator shall notify the Trustee in writing that (i) the Trustee shall contest the validity of such taxes in any manner deemed appropriate by the Administrator; or (ii) the Administrator itself will contest the validity of any such taxes, and the Trustee shall have no responsibility or liability respecting such contests; provided that whichever party to this Agreement contests any proposed levy or assessment of tax, the other party shall provide such information and cooperation as the party conducting the contest shall reasonably request. The Trustee may assume that any proposed or final assessment of taxes are lawfully levied or assessed if the Administrator fails to advise it in writing to the contrary within fifteen (15) days after the Administrator receives the above notice from the Trustee.
 - b. If upon the written request of the Administrator, the Trustee shall contest the validity of any such taxes, all costs and expenses thereof shall be deemed to be an expense of the Fund. However, notwithstanding the foregoing, the Trust shall indemnify the Trustee and hold the Trustee harmless from any liability incurred by it with respect to contesting any such taxes at the written request of the Administrator.
- 2.8. Consistency of Interpretation. The parties intend that this Agreement comply with Code Sections 501(c)(9) and 512(a)(3)(E) and this Agreement shall be interpreted consistently with these Code Sections.

ARTICLE III
DUTIES OF THE TRUSTEE

The Trustee shall have only those duties specifically assumed by it in this Agreement. The Trustee shall supervise the general operations of the Fund, and shall conduct the business and activities of the Trust in accordance with this Trust Agreement and applicable law. Except as otherwise provided herein, the Trustee shall hold, manage and protect the Fund and collect the income therefrom and contributions thereto. The Trustee shall be responsible only for the money and property actually received by it hereunder. The Trustee from time to time shall make payments or distributions from the Fund to such persons, in such manner, and in such amounts as the Administrator, or its agents designated in writing from time to time, shall direct. The Trustee shall have no responsibility to administer or interpret the Plan, to compute any amount to be paid to it by the Employers, to bring any action or proceeding to enforce payment of any contributions to the Fund, or to see that the Fund is adequate to meet liabilities under the Plan.

The parties to the Agreement acknowledge and agree that all such assets are held in the Trust on behalf of and at the risk of Plan Participants and Eligible Employees and any losses shall be borne solely by the Plan Participants and Eligible Employees thereunder. The Trustee shall have no discretion whatsoever with respect to the management, disposition or investment of the assets held in this Trust.

ARTICLE IV
ADMINISTRATION

The Administrator from time to time shall furnish the Trustee with the names and specimen signatures of its employees who are authorized to act for it as Administrator, and shall promptly notify the Trustee of any changes thereof. Until notified to the contrary, the Trustee shall be fully protected in relying upon the most recent list of names of authorized employees furnished to it by the Administrator.

ARTICLE V
FUNDING OPTIONS

With respect to the Fund maintained pursuant to this Agreement, the Employers will contribute amounts to the Trust, as set forth in the PEHP Employer Data Sheet or written funding agreement and pursuant to the terms and conditions of the Plan and Participation Agreements, in order to provide for the payment of benefits under the Plan. The Administrator and Employers may from time to time, change the funding options, consistent with the objectives of the Plan and applicable law by a mutually agreeable method (which method could include amending the Participation Agreement and/or updating the PEHP Employer Data Sheet or funding agreement). With each contribution, the Employer will provide the Administrator with a contribution report indicating the amount to be allocated on behalf of each employee for whom a contribution is made for post employment health benefits under the Plan. The Administrator and Trustee may assume the contributions paid over to the Trustee by Employers are correct.

Employer contributions to the Trust shall be paid in accordance with procedures established by the Administrator and the Trustee. The Administrator or its designee shall record the contributions and reconcile the Employer's contribution reports. The Administrator shall instruct the Trustee to transfer the contributions received in good order to the Trust account upon completion of such recording and reconciliation. Contributions shall not accrue income or share in investment gains or losses prior to the transfer to the Trust's investment account. Good order is defined as the reconciliation of contribution data and funds remitted by the Employer. An Employer shall have the obligation to notify its Employees if it is not making contributions as required.

ARTICLE VI
INVESTMENTS

6.1. General Investment Authorization.

- a. All amounts contributed to the Fund shall be invested in the Post Employment Health Plan Group Variable Annuity Contract ("Contract") offered by Nationwide Life Insurance Company ("NLIC"). The initial amounts contributed shall be invested using the most conservative funding option of the Contract unless an Employer, for its Plan, directs the Administrator otherwise in writing. Unless otherwise directed by an Employer, the Eligible Employees or Participants shall have the opportunity to invest their account balances (and any future contributions to their accounts) in more aggressive funding options of the Contract.
- b. To the extent the current funding options are no longer used for the Trust's investments pursuant to Section 11.1 and Section 11.2 hereunder, the Fund shall be invested and reinvested, without distinction between principal and income, in such government and fixed income securities that carry a rating of A or better by any established securities rating service.

The Administrator from time to time shall communicate to the Trustee the investment objectives of the Fund and the Plan's short and long run financial and liquidity needs.

- 6.2. Investments in Securities of the Administrator, Trustee, and Employers. No part of the Fund shall be invested directly in securities or bonds of the Administrator, the Trustee, or the Employers. Assets of the Fund may, however, be invested in savings accounts and certificates of deposit or other time deposits with any bank that bears reasonable rates of interest and in annuity products offered by licensed insurance companies.

ARTICLE VII
POWERS OF TRUSTEE

- 7.1. General Administrative Responsibilities and Powers. The Trustee is authorized and empowered to take any action set forth below with respect to the Trust:

- a. to accept instructions from the Administrator regarding the allocation, distribution or other disposition of the Trust and all matters relating thereto;
- b. to accept written instructions from the Administrator regarding the disposition of the assets of the Trust;
- c. to cause any portion or all of the Trust to be issued, held, or registered in the individual name of the Trustee, in the name of its nominee, in an affiliated securities depository, or in such other form as may be required or permitted under applicable law or to be held in the name of another Trustee (however, the records of the Trustee shall indicate the true ownership of such property);
- d. to employ such agents and counsel, including legal counsel, as the Trustee determines reasonably necessary in managing and protecting the assets of the Trust, in handling controversies under any section of this Agreement, or in defending itself successfully and to pay such agents and counsel compensation out of the Trust unless such compensation is otherwise paid;
- e. to commence, maintain, or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee shall not be obligated to do so unless it has been indemnified to its satisfaction against all expenses and liabilities sustained or anticipated by reason thereof;
- f. to hold part or all of the Trust uninvested as may be necessary or appropriate;

- g. to forward to the Advisory Committee, for exercise, all proxies solicited; to vote, on behalf of the Trust and in accordance with the instructions provided by the Advisory Committee, all proxies that are returned by the Advisory Committee; and to abstain from voting proxies that are not returned by the Advisory Committee; and
- h. to execute any documents necessary for the proper investment of the Trust assets into applicable funding options, including execution of the Contract, as necessary.
- i. to do all other acts necessary or desirable for the proper administration of the Trust.

- 7.2. Investment Responsibility of Trustee. The Trustee shall have no investment management responsibility with respect to the Trust or any other assets held under the Trust, including, but not limited to, the selection of the investment options for the Fund. Payments made by the Employers to the Trustee or received by the Trustee from any other source shall be allocated in accordance with written instructions received from the Administrator.

The Advisory Committee or the Association shall have all power over and responsibility for the selection of investment vehicles and the management, disposition, and investment of assets of the Trust, including, but not limited to, the selection of investment options. The Trustee shall comply with written instructions concerning those assets, subject to restrictions, if any, imposed by the investment options and the operation of any securities markets. No party shall issue, and the Trustee shall have no obligation to comply with, directions that violate the terms of the Plan or this Agreement. Except as provided in this Agreement, the Trustee shall have no duty or responsibility to review, initiate action, or make recommendations regarding the Trust and shall retain assets until directed in written instructions to dispose of them.

The Trustee shall not be liable for any loss which results from exercise of investment decisions made by the Advisory Committee, the Association, the Employers, or Eligible Employees or Participants. If a Participant or Eligible Employee who has investment authority under the terms of the Plan fails to provide directions, the Employers, or its designee, shall direct the investment of the Participant or Eligible Employee's account.

The Trustee shall have no duty or responsibility to review or make recommendations regarding investments made at the direction of the Advisory Committee, the Employer, Plan Participant or Eligible Employee and shall be required to act only upon receipt of proper written instructions or the direction of the Participant or Eligible Employee in the manner designated by the Trustee.

No one providing investment advice to the Plan, the Association, the Employers, Participant, Eligible Employee or other party is acting as an agent of the Trustee for such purpose. Any party who is an agent of the Trustee in any other capacity will be treated as the agent of the Plan, the Employer, Participant, Eligible Employee or other party to whom such investment advice is provided, when providing such advisory services.

- 7.3. Rights of Trustee in Investment Options of the Fund. The Trustee shall exercise all rights and privileges granted under the investment options of the Fund, as directed by the Advisory Committee, Administrator, or other party designated under the Plan. The Trustee shall have no discretion in the exercise of such rights and privileges and, consequently, shall have no responsibility for any action taken by it under the investment options for its failure to take such action.

Any decisions concerning the purchase, retention, or termination of a Plan's investment in the investment options shall be made only by the Advisory Committee or other party designated under the Plan. In no case will the Trustee have any responsibility for such decisions. The Trustee, upon receipt of written instructions from the Advisory Committee or Administrator, will process requests

for disbursements and withdrawals. Any notice of termination of participation under an investment option shall require the written instructions to the Trustee.

The foregoing authority of the Advisory Committee or the Administrator to act and to direct the Trustee to act under the investment options shall neither preclude nor interfere with the exercise by the Trustee of its rights and responsibilities under this Agreement. Accordingly, the Trustee shall be entitled at all times, without limitation, to deduct from the assets of the Trust any amount which becomes payable pursuant to Section 2.5, Section 2.6, Section 2.7, Section 10.3 or Section 12.2(b) of this Agreement, as specified in such sections.

ARTICLE VIII

LIABILITY AND IMMUNITIES OF THE TRUSTEE

- 8.1. Contributions. The Trustee shall not be responsible for computing or collecting contributions due under the Plan.
- 8.2. Claims Limited to the Fund. The Trustee in its corporate capacity shall not be liable for claims of any persons in any matter regarding the Plan; such claims shall be limited to the Fund. The Trustee shall not be liable to make distributions or payments of any kind unless sufficient funds are available in the Fund. The Trustee shall be responsible only for such money and other assets as are received by it as Trustee under this Agreement.
- 8.3. Retention of Advisors. The Trustee may consult with legal counsel and other professional advisors with respect to the meaning and construction of this Agreement or its powers, obligations, and conduct hereunder. The Trustee shall not be liable for the consequences of, and shall be fully protected in reasonably acting pursuant to or reasonably relying upon, the advice of such legal counsel or advisors.
- 8.4. Qualification of Trust. The Trustee shall be fully protected in assuming that the Trust is tax exempt pursuant to Code Section 501(a), unless it is advised to the contrary in writing by a governmental agency.
- 8.5. General Immunities of Trustee. Except for its own negligence, willful misconduct, or breach of fiduciary duty, neither the Trustee nor any of its officers, directors, or employees, nor any agent of or counsel for any of the foregoing, shall be liable to anyone at any time interested in the Plan, the Trust, or the Fund, for any act or omission in the administration of this Agreement.
- 8.6. Reliance on Instructions. The Trustee shall not be liable for any action reasonably taken or omitted in compliance with any written instruction, certification or other instrument purported to have been executed by or on behalf of the Administrator. The Trust will indemnify the Trustee and hold it harmless from any liability incurred by it with respect to any such action or omission. At any time the Trustee is in doubt concerning the course it should follow under this Agreement, it may request the Administrator to advise it, may withhold any action or omission until receiving advice in writing from the Administrator, and may rely upon any such advice or instructions from the Administrator in such matter. The Trustee may rely upon any written instrument purporting to be genuine and to have been presented and signed by the proper party or parties.
- 8.7. Communications. All notices, requests, certifications and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand or mailed, certified or registered mail, with first-class postage paid, return receipt requested (a) if to the Trustee, to Nationwide Trust Company, 10 West Nationwide Blvd. (05-02-101A), Columbus, Ohio 43215 or to such other person or address as the Trustee shall specify in writing to the Association; and (b) if to the Administrator, to Nationwide Retirement Solutions, Attention: PEHP Administration, 10 West Nationwide Blvd. (05-04- 101A), Columbus, OH 43215 or to such other address as the

Administrator shall specify in writing to the Trustee and (c) if to the Association, 317 South Patrick Street, Alexandria, VA 22314.

- 8.8. Proof of Matters. Whenever the Trustee shall deem it desirable for matter to be proved or established before taking, permitting, or omitting any act, the matter (unless other evidence in respect thereof is specifically prescribed in this Agreement) may be deemed to be conclusively established by a certification of the Administrator delivered to the Trustee, and the Trustee shall be fully protected in relying on such an instrument.
- 8.9. Disputes. If a dispute arises as to the payment of any funds or delivery of any assets by the Trustee, the Trustee may withhold such payment or delivery until the dispute is finally settled consistent with the terms of Section 14.8.

ARTICLE IX

ACCOUNTING OF THE TRUSTEE

- 9.1. Keeping of Accounts. The Trustee, or its designee, shall keep accurate and detailed records of all its transactions under this Agreement. These records shall be open to inspection during regular business hours of the Trustee by any person or persons designated by the Administrator in a written instrument filed with the Trustee.
- 9.2. Rendering of Accounts. Within ninety (90) days after (a) the close of each calendar year, (b) the Trustee's removal or resignation as trustee hereunder, or (c) the termination in whole or in part of the Plan or this Agreement, the Trustee, or its designee, shall file with the Administrator an account setting forth all its transactions (including all receipts and disbursements) under this Agreement during such year, or during the period from the close of the last preceding fiscal year of the Trust to the effective date of its removal or resignation or the termination of the Plan or this Agreement, and showing all assets held by it hereunder at the end of such accounting period. The fiscal year of the Trust shall be a calendar year. The Trustee shall certify in writing that the information in the accounting is accurate. The Administrator and the Trustee may agree in writing that similar accounts will be prepared by the Trustee and filed with the Employers at more frequent intervals.
- 9.3. Discharge of Trustee. Ninety (90) days after the filing of any account with the Administrator under Section 9.2 hereof, the Trustee shall be forever released and discharged from any liability or accountability to anyone with respect to the transactions shown or reflected on the account, except with respect to any acts or transactions as to which the Administrator files written objections with the Trustee within such 90-day period. The written approval of the Administrator of any account filed by the Trustee, or the Administrator's failure to file written objections within ninety (90) days, shall be a settlement of such account as against the Administrator and each Employer and shall forever release and discharge the Trustee from any liability or accountability to such entities with respect to the transactions shown or reflected on such account.

If a statement of objections is filed by the Administrator, and if the Administrator is satisfied that its objections should be withdrawn or the account is adjusted to its satisfaction, the Administrator shall indicate its approval of the account in a written statement filed with the Trustee, and the Trustee shall be forever released and discharged from all liability and accountability to the Administrator and each Employer in accordance with the immediately preceding sentence. If an objection is not settled by the Administrator and the Trustee, the Trustee may start a proceeding for judicial settlement of the account in any court of competent jurisdiction, and the only parties that need be joined in such a proceeding are the Trustee, the Administrator, each Employer and such other parties whose participation is required by law.

- 9.4. Right to Judicial Settlement. Nothing in this Agreement shall prevent the Trustee from having its accounts settled by a court of competent jurisdiction at any time. The only parties that need be

joined in any such proceeding are the Trustee, the Administrator, each Employer, and such parties whose participation is required by law.

ARTICLE X

REMOVAL AND RESIGNATION OF THE TRUSTEE

- 10.1. Removal or Resignation. The Trustee may resign as trustee under this Agreement at any time by a written instrument delivered to the Association and to the Administrator giving a ninety (90) day advance notice of such resignation, and may be removed at any time by the Association or Administrator upon thirty (30) days advance written notice to the Trustee. Nationwide Trust Company, FSB a division of Nationwide Bank shall automatically resign as Trustee immediately upon termination of Nationwide Retirement Solutions as Administrator. If within ninety (90) days after notice of resignation or removal of the Trustee, the Administrator has not designated a successor Trustee, the Trustee may apply to any court of competent jurisdiction for the appointment of a successor Trustee.
- 10.2. Successor Trustee. If a vacancy in the office of trustee of the Trust occurs, the Administrator, or the Association subject to the veto right described below, shall appoint a successor Trustee which shall be a bank as defined in Section 3(a)(2) of the Securities Act of 1933. The Administrator shall provide thirty (30) days advance notice to the Advisory Committee representatives that it has designated a successor Trustee. If, pursuant to the Voting Process, the Advisory Committee representatives object to the designated successor in writing to the Administrator within thirty (30) days after the date of the Administrator's notification mailing, then the designation shall not become effective. The Administrator shall then seek a different successor. If there is no sufficient objection, the Administrator shall deliver to the Trustee copies of (a) a written instrument executed by the Administrator appointing such successor, and (b) written instrument executed by the successor in which it accepts such appointment. Such instruments shall indicate their effective date. Any such successor trustee shall have all the powers and duties of the original trustee.
- 10.3. Delivery of Fund. If the Trustee resigns or is removed, it shall deliver any assets of the Fund in its possession to a successor trustee as soon as is reasonably practicable after the settlement of its account or at such earlier time as shall be agreed on by the Administrator, the Trustee, and the successor trustee. The Trustee may, however, reserve such sum of money as it deems advisable for payment of its fees and expenses in connection with its administration of the Trust or the settlement of its account or for payment of all taxes that may be assessed on or in respect of the Fund or the income thereof for the period before its removal or resignation. The Administrator may require the Trustee to bill the Administrator, rather than withdraw funds from the Trust to satisfy the Trustee's obligations. The Trustee shall pay over to the successor trustee any balance of such reserve remaining after the payment of such fees, expenses, and taxes. The delivery of assets of the Fund to the successor trustee shall not be deemed a waiver by the Trustee of any lien or claim it may have on the Fund for its fees or expenses. When the Fund has been transferred and delivered to the successor trustee and the accounts of the Trustee have been settled as provided in Article IX hereof, the Trustee shall be released and discharged from all further accountability or liability for the Fund as set forth in this Agreement and shall not be responsible in any way for the further disposition of the Fund or any part thereof.

ARTICLE XI

CHANGE IN INVESTMENT OPTIONS

- 11.1. Request for Different Investment Option, Change Proposed by Administrator. Subject to the approval of the Advisory Committee as described below, the Administrator may propose investment options different than those currently selected. The Administrator shall provide thirty (30) days

advance notice to the Advisory Committee that it proposes a change in the investment option utilized by the Trust.

If Employee Advisory Committee representatives representing a majority of Participants and Eligible Employees and if Employer Advisory Committee representatives employing or formerly employing a majority of Participants and Eligible Employees, pursuant to the Voting Process, object to the proposed change in investment option in writing to the Administrator within thirty (30) days after the date of the Administrator's notification mailing, then the change in investment option shall not become effective. If there is not sufficient objection, the Advisory Committee has thereby approved the change; the Administrator shall direct the assets to be invested in the new investment option.

- 11.2. Request for Different Investment Option, Change Proposed by Advisory Committee Representative. If a participating Employer or participating employee group requests in writing through its Advisory Committee representative to the Administrator a change in the investment option utilized by the Trust, the Administrator, or its designee, shall conduct an evaluation of the proposed investment option(s). Pending agreement by the relevant mutual fund house to have the fund added to the Trust as an investment option, the Administrator shall provide thirty (30) days advance notice to the Advisory Committee that a change has been proposed to the investment options utilized by the Trust. If Employee Advisory Committee representatives representing a majority of Participants and Eligible Employees and if Employer Advisory Committee representatives employing or formerly employing a majority of Participants and Eligible Employees, pursuant to the Voting Process, object to the proposed change in investment option in writing to the Administrator within thirty (30) days after the date of the Administrator's notification mailing, then the change in investment option shall not become effective. If there is not sufficient objection, the Advisory Committee has thereby approved the change; the Administrator shall direct the assets to be invested in the new investment option. Changes in investment options may impact the pricing of this offering.

ARTICLE XII

AMENDMENT AND TERMINATION

- 12.1. Amendment. This Agreement may be amended in such manner as may be necessary or advisable in order to qualify or retain the Trust as a VEBA in accordance with Code Section 501(c)(9) and by a written instrument signed by the Trustee and the Administrator. Any such amendment may, by its terms, be retroactive. Subject to a veto right described below, this Agreement may be amended in any other manner at any time by a written instrument signed by the Trustee and the Administrator provided the Administrator gives thirty (30) days' notice to the Advisory Committee. If Employee Advisory Committee representatives representing a majority of Participants and Eligible Employees and if Employer Advisory Committee representatives employing or formerly employing a majority of Eligible Employees or Participants, pursuant to the Voting Process, object to such amendment in writing to the Administrator within thirty (30) days after the date of the Administrator's notification mailing, then the amendment shall not become effective. If there is not sufficient objection, the amendment shall take effect as set forth in the amendment. The Administrator shall certify to the Trustee that the amendment does not permit any part of the Fund to be used for or diverted to purposes other than the exclusive benefit of Participants and Eligible Employees or the payment of reasonable expenses of administering the Plan and Trust. The instrument of amendment shall specify its effective date and amendments may be made effective retroactively.
- 12.2. Termination. The Trust shall continue until all liabilities under the Plan to Participants have been satisfied or the Administrator certifies to the Trustee that Plan benefits will no longer be provided through this Trust (e.g. the Administrator reasonably determines that it is no longer administratively cost effective for the Trust to continue).

- a. Termination Before All Liabilities Are Satisfied. If the Administrator certifies to the Trustee that Plan benefits will no longer be provided through this Trust, the Trustee shall dispose of the Fund in accordance with the Administrators written instructions, subject to the Trustee's right to receive a written or judicial settlement of its account. Such instruction shall be in writing and shall state that the disposition directed (i) does not, prior to the satisfaction of all liabilities under the Plan to Participants, result in any part of the Fund being used for or diverted to purposes other than the exclusive benefit of Participants and the payment of reasonable expenses of administering the Trust, and (ii) is in accordance with Code Section 501(c)(9) and other applicable laws.
- b. Termination After All Liabilities Are Satisfied and Assets Remain in Trust. If there is an amount remaining in the Fund and the Administrator certifies to the Trustee that the Plan is terminated and all Plan liabilities have been satisfied, the Trustee shall then, upon the written instructions of the Administrator, distribute such amounts to one or more trusts or other entities established or maintained by the Employers and associations representing former Participants and Eligible Employees in proportion to the accounts (as defined in the Plan) of Participants and Eligible Employees as of the date twelve (12) months prior to the date all liabilities had been satisfied. The Administrator shall certify to the Trustee that such trust or entity shall provide life, sick, accident, or other benefits that are properly payable from a trust that is established for the purposes of Code Section 501(c)(9). No amounts shall revert to the Employers in contravention of Code Section 501(c)(9). The Trustee may, however, subject to the approval of the Administrator, reserve such sum of money as it deems is necessary for payment of its fees and expenses in connection with its administration of the Trust or the settlement of its account or for payment of taxes that may be assessed on or in respect of the Fund or the income thereof.

ARTICLE XIII

ADVISORY COMMITTEE

- 13.1. Appointment of Advisory Committee. Each participating group shall appoint one employee representative and one employer representative to an Advisory Committee for the Trust. The employee representative on the Advisory Committee shall be selected by the Employees for the affected group, and the employer representative shall be appointed by the Employer for the affected group. Each Advisory Committee member shall serve from the effective date of appointment until the earlier of his or her death, incapacity, disqualification by law, resignation or removal. Removal and appointment of a successor Advisory Committee member shall be made by the Employees or Employer of the affected group which appointed the member or its successor. An appointment to the Advisory Committee shall become effective by filing a written appointment signed by the appointing entity with the Administrator. For the employee representative, the appointment shall be evidenced by the signing of a majority of the Employees subject to the Plan by their respective Employer or by such other evidence which the Administrator shall determine to be acceptable.

The purpose of the Advisory Committee is to serve as a representative of the participating or affected groups for purposes of communications concerning the Administrator and Trustee on the Trust's operations and administration. The Advisory Committee shall have no responsibility with respect to the operation and administration of the Trust or the Plan, except that where the Trust or Plan provides for notifications to the Advisory Committee representatives participating under the Trust, notification to the Advisory Committee members shall constitute such notification. In addition, any approval or veto rights which employee representatives or Employers may have concerning Plan or Trust changes or operations may be exercised by the Advisory Committee.

- 13.2. Authority of Advisory Committee to Remove the Administrator. A majority of the Employee Advisory Committee representatives and a majority of the Employer Advisory Committee representatives, acting jointly through the Voting Process, may remove the Administrator without cause during the last month of each Plan Year. If, within sixty (60) days after notice of resignation or removal of the Administrator, the Advisory Committee representatives have not designated a successor Administrator, the Administrator may apply to any court of competent jurisdiction for the appointment of a successor Administrator.

ARTICLE XIV

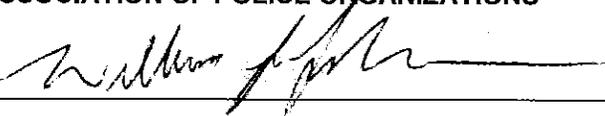
MISCELLANEOUS

- 14.1. Merger of Trustee. Any corporation into which the Trustee is merged or with which it is consolidated, or any corporation resulting from a merger, reorganization, or consolidation to which the Trustee is a party, or any corporation to which all or substantially all of the Trust business or the Trustee is transferred shall become the successor trustee under this Agreement without the execution or filing of any further instrument or the performance of any further act.
- 14.2. Employers. Any Employer that adopted or adopts the Plan prior to or after the effective date of this Agreement shall be bound by this Agreement without further act on its part upon execution of the Participation Agreement. Each Employer shall be bound by all the terms and conditions of the Plan and of this Agreement, as then in effect and as it may thereafter be amended. The Administrator shall have the sole authority to enforce this Agreement on behalf of each Employer, and the Trustee need not deal with any Employer, except by dealing with the Administrator as the agent of the Employers for the purposes of giving or receiving notices, instructions, directions and other communications to or from the Trustee and approving the accounts of the Trustee. The Trustee shall invest and administer the Fund as a single fund for investment and accounting purposes without identification or allocation among the Employers or to any Participants or Eligible Employees, unless the Trustee and the Administrator agree in writing to segregate funds.
- 14.3. Alienation of Fund. No right or claim in or to the Fund or any assets thereof shall be assignable or subject to garnishment, attachment, execution, or levy of any kind; any attempt to transfer, assign, or pledge the same shall be void and shall not be recognized by the Trustee except to such extent as may be legally required.
- 14.4. Applicable Law. The Trust will be administered in the State of Ohio, and its validity, construction, and all rights hereunder shall be governed by the Code, the Home Owners' Loan Act of 1933 and, to the extent not pre-empted, by the laws of Ohio. All contributions to the Trust shall be deemed to occur in Ohio.
- 14.5. Headings Not Part of the Agreement. Headings of Articles and Sections are inserted for convenience of reference. They are not part of this Agreement and shall not be considered in construing it.
- 14.6. Multiple Copies. This Agreement may be executed in any number of counterparts, each of which shall be considered an original even though no others are produced.
- 14.7. No Third Party Benefit. This Agreement is intended for the exclusive benefit of the parties to this Agreement, the participating Plans, the Participants and Eligible Employees in such Plans, and their respective successors and assigns, and nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any other party.
- 14.8. Dispute Resolution and Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach of the same, shall be settled through consultation and negotiation in good faith and a spirit of mutual cooperation. However, if those attempts fail, the parties agree that any misunderstandings or disputes arising from this Agreement shall be decided by arbitration in

Columbus, Ohio which shall be conducted, upon request by either party, before three (3) arbitrators (unless both parties agree on one (1) arbitrator) designated by the American Arbitration Association (the "AAA"), in accordance with the terms of the Commercial Arbitration Rules of the AAA and, to the maximum extent applicable, the United States Arbitration Act (Title 9 of the United States Code), or if such act is not applicable, any substantially equivalent state law. The parties further agree that the arbitrator(s) will decide which party must bear the expense of the arbitration proceedings.

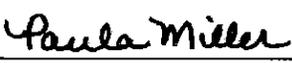
IN WITNESS WHEREOF, the Association and the Trustee have caused this Agreement to be executed by their duly authorized officers and their respective seals to be hereunto affixed and attested as of the day and year first above written.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

By:  _____

Title: _____ Executive Director _____

NATIONWIDE TRUST COMPANY, FSB a division of NATIONWIDE BANK

By:  _____

Title: _____ Chief Trust Officer _____



CITY COUNCIL AGENDA

SUBJECT:

Resolution 3305-416 - Approving the City of Avondale 401(a) Trust Plan

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Cherlene Penilla, Human Resources Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff is requesting that Mayor and Council authorize the City Manager to review and approve the proposed addition of a 401(a) option to the Nationwide deferred compensation plan (457) adopted by the City in 1994.

BACKGROUND:

The City currently provides two deferred compensation plans to employees. (Nationwide and ICMA) Employee participation in the deferred compensation plan is completely voluntary. Contributions to the deferred compensation plans are made through payroll deductions. A 401(a) is a type of retirement plan where employee contributions into the 401(a) plan are made through payroll deductions. Contributions can be made by the City, the employee, or both. The 401(a) plan will be set up for voluntary employee contributions.

DISCUSSION:

During negotiations with the Police and Fire associations, requests were made to have the City participate in other deferral plan options for retirement.

Any contributions made to the 401(a) plan by employees will be tax-deferred. This means that employees will not be required to pay any income taxes on contributions made on a pre-tax basis until they begin withdrawing from the account.

401(a)'s provide employees that elect to participate in them with tax advantages. Any earnings on the employee's contributions are tax-free until withdrawals are made upon retirement. Earnings from the account are not taxed until withdrawal from the 401(a). Employees can participate in both the 457 and the 401(a) at the same time.

At retirement, employees would be permitted to defer any earned vacation and sick leave accruals, within policy limits, into the 401(a). Pre-retirement deferrals of earned vacation, within policy limits, are also permitted.

The total contribution limit for 401(a) defined contribution plans is \$53,000 for the calendar year 2016. This includes both employer and employee contributions.

This benefit will be made available to all City employees beginning during open enrollment in the first two weeks of May 2016. The employee may begin their contributions to the plan beginning in the first pay period of the new fiscal year 2016/2017.

There is no financial impact to the City and execution of a plan document is all that is required to make this option available to City employees.

BUDGET IMPACT:

There is no budgetary impact to the City for participation in the 401(a) option.

RECOMMENDATION:

Staff recommends that the Mayor and City Council adopt the resolution authorizing the City Manager to review and approve, the proposed amendment to the Nationwide deferred compensation 457 plan adding the 401(a) option.

ATTACHMENTS:

Description

[Resolution 3305-416](#)

RESOLUTION NO. 3305-416

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE CITY OF AVONDALE 401(A) TRUST PLAN, EFFECTIVE JULY 1, 2016.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The City of Avondale 401(a) Plan and the Summary of Plan Provisions (the "Plan") are hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The effective date of the Plan will be July 1, 2016.

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Plan and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, April 4, 2016.

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 3304-416

[Plan]

See following pages.

ADOPTION AGREEMENT FOR
NATIONWIDE FINANCIAL SERVICES, INC.
GOVERNMENTAL VOLUME SUBMITTER MONEY PURCHASE PLAN

CAUTION: Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

EMPLOYER INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: City of Avondale

Address: 11465 W. Civic Center Drive Street

Avondale Arizona 85323
City State Zip

Telephone: (623) 333-2200

Taxpayer Identification Number (TIN): 86-6000233

Employer's Fiscal Year ends: June 30th

2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

- a. [] State government or state agency
b. [] County or county agency
c. [X] Municipality or municipal agency
d. [] Indian tribal government (see Note below)
e. [] Other:

NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

3. PARTICIPATING EMPLOYERS (Plan Section 1.38). Will any other Employers adopt this Plan as Participating Employers?

- a. [X] No
b. [] Yes

PLAN INFORMATION

(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Questions 9. through 10.)

4. PLAN NAME:

City of Avondale 401(a) Plan

5. PLAN STATUS

- a. [X] New Plan
b. [] Amendment and restatement of existing Plan
PPA RESTATEMENT (leave blank if not applicable)

- 1. [] This is an amendment and restatement to bring a plan into compliance with the Pension Protection Act of 2006 ("PPA") and other legislative and regulatory changes (i.e., the 6-year pre-approved plan restatement).

6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)

Initial Effective Date of Plan

- a. July 1, 2016 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

Restatement Effective Date. If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

- b. (enter month day, year; may enter a restatement date that is the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

- 4. Part-time/temporary/seasonal Employees. A part-time, temporary or seasonal Employee is an Employee whose regularly scheduled service is less than _____ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.54). However, if any such excluded Employee actually completes a Year of Service, then such Employee will no longer be part of this excluded class.
- 5. Other: _____ (must be definitely determinable under Regulations §1.401-1(b). Exclusions may be employment title specific but may not be by individual name nor result in only a finite group of individuals (e.g., excluding anyone hired after 12/31/12.)

13. **CONDITIONS OF ELIGIBILITY (Plan Section 3.1)**

- a. **No age or service required.** No age or service required for all Contribution Types (skip to Question 14).
- b. **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

Eligibility Requirements

c. **Age Requirement**

- 1. No age requirement
- 2. Age 20 1/2
- 3. Age 21
- 4. Age _____ (may not exceed 26)

d. **Service Requirement**

- 1. No service requirement
- 2. _____ (not to exceed 60) months of service (elapsed time)
- 3. 1 Year of Service
- 4. _____ (not to exceed 5) Years of Service
- 5. _____ consecutive month period from the Eligible Employee's employment commencement date and during which at least _____ Hours of Service are completed.
- 6. _____ consecutive months of employment from the Eligible Employee's employment commencement date.
- 7. Other: _____ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

NOTE: If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.

NOTE: Year of Service means Period of Service if elapsed time method is chosen.

Waiver of conditions. The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):

- e. If employed on _____ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
 - 1. service requirement (may let part-time Eligible Employees into the Plan)
 - 2. age requirement
 - 3. waiver is for: _____

Amendment or restatement to change eligibility requirements

- f. This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.
 - 1. The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
 - 2. The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. **EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)**

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

- a. date such requirements are met
- b. first day of the month coinciding with or next following the date on which such requirements are met
- c. first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
- d. earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
- e. first day of the Plan Year coinciding with or next following the date on which such requirements are met (Eligibility must be six months of service (or 1 1/2 Years (or Periods) of Service if 100% immediate vesting is selected) or less and age must be 20 1/2 or less.)
- f. first day of the Plan Year in which such requirements are met
- g. first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
- h. other: _____ (must be definitely determinable)

SERVICE

15. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.39 and 1.54)
- a. No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
 - b. Prior service with the designated employers is recognized as follows (answer c. and select one or more of c.1. - 3.; select d. - f. as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

Other Employer	Eligibility	Vesting	Contribution Allocation
c. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>
d. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>
e. <input type="checkbox"/> Employer name: _____	1. <input type="checkbox"/>	2. <input type="checkbox"/>	3. <input type="checkbox"/>

Limitations

- f. The following provisions or limitations apply with respect to the recognition of prior service: _____ (e.g., credit service with X only on/following 1/1/13)

NOTE: If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.39 and 1.54 regardless of any selections above.

16. SERVICE CREDITING METHOD (Plan Sections 1.39 and 1.54)

NOTE: If no selections are made in this Section, then the provisions set forth in the definition of Year of Service in Plan Section 1.54 will apply, including the following defaults:

1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
 2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service.
 3. For eligibility purposes, the computation period will be as defined in Plan Section 1.54 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
 4. For vesting and allocation purposes, the computation period will be the Plan Year.
- a. **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:
 1. all purposes (skip to Question 17)
 2. the following purposes (select one or more):
 - a. eligibility to participate
 - b. vesting
 - c. sharing in allocations or contributions
 - b. **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):
 1. **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
 2. **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
 3. **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
 - a. all purposes
 - b. the following purposes (select one or more):
 1. eligibility to participate
 2. vesting
 3. sharing in allocations or contributions

Such method will apply to:

 - c. all Employees
 - d. Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
 - e. other: _____ (e.g., per-diem Employees only)

Hours of Service will be determined on the basis of:

- f. days worked (10 hours per day)
- g. weeks worked (45 hours per week)
- h. semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
- i. months worked (190 hours per month)
- j. bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
- k. other: _____ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).

- 4. **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least _____ (not to exceed 1,000) Hours of Service for:
 - a. all purposes
 - b. the following purposes (select one or more):
 - 1. eligibility to participate
 - 2. vesting
 - 3. sharing in allocations or contributions

VESTING

- 17. VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))
 - a. N/A (no Employer contributions; skip to Question 19)
 - b. The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

NOTE: The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

Vesting for Employer contributions other than matching contributions

- c. N/A (no Employer contributions (other than matching contributions); skip to f.)
- d. 100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
- e. The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
 - 1. 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
 - 2. 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
 - 3. 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
 - 4. Cliff: 100% vesting after _____ (not to exceed 15) years
 - 5. Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

Vesting for Employer matching contributions

- f. N/A (no Employer matching contributions)
- g. The schedule above will also apply to Employer matching contributions.
- h. 100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
- i. The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
 - 1. 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
 - 2. 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
 - 3. 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
 - 4. Cliff: 100% vesting after _____ (not to exceed 15) years
 - 5. Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

18. VESTING OPTIONS

Excluded vesting service. The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

- a. Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
- b. Service prior to the computation period in which an Employee has attained age _____.
- c. Service during a period for which an Employee did not make mandatory Employee contributions.

Vesting for death, Total And Permanent Disability and Early Retirement Date. Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

- d. Death
- e. Total and Permanent Disability
- f. Early Retirement Date

RETIREMENT AGES

19. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.32) means:

- a. **Specific age.** The date a Participant attains age 65 (may not exceed 65)
- b. **Age/participation.** The later of the date a Participant attains age _____ (may not exceed 65) or the _____ (may not exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced

NOTE: Effective for Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register, Normal Retirement Age of less than age 62 must meet Regulation §1.401(a)-1(b)(2).

Qualified police or firefighters. Normal Retirement Age for qualified public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable)

- c. Age _____ (may not be less than 50)

20. NORMAL RETIREMENT DATE (Plan Section 1.33) means, with respect to any Participant, the:

- a. date on which the Participant attains "NRA"
- b. first day of the month coinciding with or next following the Participant's "NRA"
- c. first day of the month nearest the Participant's "NRA"
- d. Anniversary Date coinciding with or next following the Participant's "NRA"
- e. Anniversary Date nearest the Participant's "NRA"
- f. Other: _____ (e.g., first day of the month following the Participant's "NRA").

21. EARLY RETIREMENT DATE (Plan Section 1.15)

- a. N/A (no early retirement provision provided)

b. Early Retirement Date means the:

- 1. date on which a Participant satisfies the early retirement requirements
- 2. first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
- 3. Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

Early retirement requirements

- 4. Participant attains age _____
AND, completes... (leave blank if not applicable)
 - a. at least _____ Years (or Periods) of Service for vesting purposes
 - b. at least _____ Years (or Periods) of Service for eligibility purposes

- c. Early Retirement Date means: _____ (must be definitely determinable)

COMPENSATION

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).

Base definition

- a. Wages, tips and other compensation on Form W-2
- b. Code §3401(a) wages (wages for withholding purposes)
- c. 415 safe harbor compensation

NOTE: Plan Section 1.23(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457(b).

Determination period. Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):

- d. the Plan Year
- e. the Fiscal Year coinciding with or ending within the Plan Year
- f. the calendar year coinciding with or ending within the Plan Year

Adjustments to Compensation (for Plan Section 1.10). Compensation will be adjusted by:

g. **No adjustments** (skip to i. below)

h. **Adjustments.** Compensation will be adjusted by (select all that apply):

- 1. excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457(b))
- 2. excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
- 3. excluding Compensation paid during the "determination period" while not a Participant in the Plan.
- 4. excluding Military Differential Pay
- 5. excluding overtime
- 6. excluding bonuses
- 7. other: _____ (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

Military Differential Pay Special Effective Date (leave blank if not applicable)

- i. If this is a PPA restatement and the provisions above regarding Military Differential Pay (included unless h.4. is selected) have a later effective date than Plan Years beginning after December 31, 2008, then enter the date such provisions were first effective: _____ (may not be earlier than January 1, 2009; for Plan Years beginning prior to January 1, 2009, Military Differential Pay is treated in accordance with the post-severance Compensation provisions in the following Question).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

The following optional provision of the 415 Regulations will apply to Limitation Years beginning on or after July 1, 2007 unless otherwise elected below:

415 Compensation (post-severance compensation adjustments) (select all that apply at a.; leave blank if none apply)

NOTE: Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.

a. The defaults listed above apply except for the following (select one or more):

- 1. Leave cash-outs will be **excluded**
- 2. Nonqualified unfunded deferred compensation will be **excluded**
- 3. Military Differential Pay will be **included** (Plan automatically includes for Limitation Years beginning after December 31, 2008)
- 4. Disability continuation payments will be **included**

Plan Compensation (post-severance compensation adjustments)

b. **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans.

c. **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.

d. **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):

- 1. Exclude all post-severance compensation
- 2. Regular pay will be **excluded**
- 3. Leave cash-outs will be **excluded**
- 4. Nonqualified unfunded deferred compensation will be **excluded**
- 5. Military Differential Pay will be **included**
- 6. Disability continuation payments will be **included**

NOTE: The above treatment of Military Differential Pay only applies to Plan Years beginning prior to January 1, 2009. For Plan Years beginning after such date, Military Differential Pay is not considered post-severance compensation and the provisions of Question 22 apply.

Post-severance compensation special effective date (leave blank if not applicable)

- e. If this is a PPA restatement and the post-severance compensation adjustments above for 415 Compensation or Plan Compensation applied other than the first day of the Plan Year beginning on or after July 1, 2007, then enter the date such provisions were first effective: _____

CONTRIBUTIONS AND ALLOCATIONS

24. EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS) (Plan Section 4.1(a)(2)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

CONTRIBUTION FORMULA (select one or more of the following contribution formulas:)

- a. **Fixed contribution** equal to (only select one):
1. _____% of each Participant's Compensation for each:
 - a. Plan Year
 - b. calendar quarter
 - c. month
 - d. pay period
 - e. week
 2. \$_____ per Participant.
 3. \$_____ per Hour of Service worked while an Eligible Employee
 - a. up to _____ hours (leave blank if no limit)
 4. other: _____ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b)).
- b. **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):

1. Sick leave
2. Vacation leave

Eligible Employees. Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3. **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):
 - a. The Former Employee must be at least age Normal Retirement Age (e.g., 55)
 - b. The value of the sick and/or vacation leave must be at least \$ _____ (e.g., \$2,000)
 - c. A contribution will only be made if the total hours is over _____ (e.g., 10) hours
 - d. A contribution will not be made for hours in excess of 250 or 33.3% of the total balance of accrued sick leave, whichever is greater for Employees classified as Fire Department Employees (e.g., 40) hours
4. **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):
 - a. The Employee must be at least age _____ (e.g., 55)
 - b. The value of the sick and/or vacation leave must be at least \$ _____ (e.g., \$2,000)
 - c. A contribution will only be made if the total hours is over _____ (e.g., 10) hours
 - d. A contribution will not be made for hours in excess of 40 and will be contributed to the Plan on behalf of Employees NOT classified as Fire Department Employees every December. All Employees classified as Fire Department Employees will have Vacation leave contributed to the Plan on their behalf by the Employer bi-annually (Every December and June) subject to any limitations as stated in the Employer's Employment Policy (e.g., 40) hours

- c. **Social Security Replacement Plan.** An amount equal to 7.5% of the Participant's Compensation for the entire Plan Year, reduced by Employee and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)

Include only part-time, seasonal and temporary Employees (leave blank if not applicable)

1. Regardless of any other provision in this to the contrary, the contribution above will only be made for part-time, seasonal, or temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2.

25. ALLOCATION CONDITIONS (Plan Section 4.3). If 24.a. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)
- a. **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).
- b. **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)
- Conditions for Participants NOT employed on the last day of the Plan Year**
1. A Participant must complete at least _____ (not to exceed 1,000) Hours of Service (or _____ (not to exceed 12) months of service if the elapsed time method is selected).
 2. A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 3. Participants will NOT share in the allocations, regardless of service.
 4. Participants will share in the allocations, regardless of service.
 5. Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).
- Conditions for Participants employed on the last day of the Plan Year**
6. No service requirement.
 7. A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 8. A Participant must complete at least _____ (not to exceed 1,000) Hours of Service during the Plan Year.
 9. Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).
- Waiver of conditions for Participants NOT employed on the last day of the Plan Year.** If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):
- c. Death
 - d. Total and Permanent Disability
 - e. Termination of employment on or after Normal Retirement Age
 1. or Early Retirement Date

26. EMPLOYER MATCHING CONTRIBUTIONS (Plan Section 4.1(a)(3)). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will make the following matching contributions:
- A. **Elective deferrals taken into account.** For purposes of applying the matching contribution provisions below, elective deferrals include elective deferral (pre-tax and Roth) contributions to the following Employer plan(s) (insert name of Plan(s) to which the elective deferral contributions being matched will be made):
- a. **457 plan(s).** Enter Plan name: _____
 - b. **403(b) plan(s).** Enter Plan name: _____
- NOTE:** If selected at Question 32, after-tax voluntary Employee contributions are also considered elective deferrals for purposes of matching contributions.
- B. **Matching Formula.** (select one)
- c. **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to _____% (e.g., 50) of the Participant's elective deferrals
 1. that do not exceed _____% of a Participant's Compensation (leave blank if no limit)
 - d. **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's elective deferrals, determined as follows:
- NOTE:** Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate \$ or %)	Matching Percentage
First _____	_____ %
Next _____	_____ %
Next _____	_____ %
Next _____	_____ %

- e. **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's elective deferrals based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____%
_____	_____%
_____	_____%

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1. vesting purposes
 2. eligibility purposes
- f. Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulations §1.401-1(b))

27. **MATCHING CONTRIBUTION PROVISIONS**

- A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:
- a. N/A (no Plan specific limit on the amount of matching contribution)
 - b. \$_____.
 - c. _____% of Compensation.
- B. **Period of determination.** The matching contribution formula will be applied on the following basis (and elective deferrals and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period):
- d. the Plan Year
 - e. each payroll period
 - f. each month
 - g. each Plan Year quarter
 - h. each payroll unit (e.g., hour)

28. **ALLOCATION CONDITIONS FOR MATCHING CONTRIBUTIONS (Plan Section 4.3).** Select a. OR b. and all that apply of c. - h.

- a. **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).
- b. **Allocation conditions apply** (select one of 1. -5. AND one of 6. - 9. below)
- Conditions for Participants NOT employed on the last day of the Plan Year.**
1. A Participant must complete at least _____ (not to exceed 1,000) Hours of Service (or _____ (not to exceed 12) months of service if the elapsed time method is selected).
 2. A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
 3. Participants will NOT share in the allocations, regardless of service.
 4. Participants will share in the allocations, regardless of service.
 5. Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Conditions for Participants employed on the last day of the Plan Year

6. No service requirement.
7. A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. A Participant must complete at least _____ (not to exceed 1,000) Hours of Service during the Plan Year.
9. Other: _____ (must be definitely determinable, not subject to Employer discretion and may not require more than one Year of Service (or Period of Service if the elapsed time method is selected)).

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

- c. Death
- d. Total and Permanent Disability
- e. Termination of employment on or after Normal Retirement Age
 1. or Early Retirement Date

Conditions based on period other than Plan Year. The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

- f. The Plan Year quarter.
- g. Payroll period.
- h. Other: _____ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. FORFEITURES (Plan Sections 1.21 and 4.3(e))

Forfeitures of Employer contributions other than matching contributions will be:

- a. added to the Employer contribution and allocated in the same manner
- b. used to reduce any Employer contribution
- c. allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
- d. other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

Forfeitures of Employer matching contributions will be:

- e. N/A. Same as above or no Employer matching contributions.
- f. used to reduce the Employer matching contribution.
- g. used to reduce any Employer contribution.
- h. other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion; e.g., Forfeitures attributable to transferred balances from Plan X are allocated as additional discretionary contributions only to former Plan X Participants)

30. ALLOCATION OF EARNINGS (Plan Section 4.3(c))

Allocation of earnings with respect to amounts which are not subject to Participant investment direction and which are contributed to the Plan after the previous Valuation Date will be determined:

- a. N/A. (all assets in the Plan are subject to Participant investment direction)
- b. by using a weighted average based on the amount of time that has passed between the date a contribution or distribution is made and the prior Valuation Date
- c. by treating one-half of all such contributions as being a part of the Participant's nonsegregated Account balance as of the previous Valuation Date
- d. by using the method specified in Plan Section 4.3(c) (balance forward method)
- e. other: _____ (must be a definite predetermined formula)

31. MANDATORY EMPLOYEE CONTRIBUTIONS (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)

- a. An Eligible Employee must contribute to the Plan _____% (not to exceed 25%) of Compensation.
- b. An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from _____% (not less than 1%) to _____% (not to exceed 25%) of Compensation.
- c. Other: _____ (must be definitely determinable)

Employer pick-up contribution. The mandatory Employee contribution is "picked up" by the Employer under Code §414(h)(2) unless elected below.

- d. The mandatory Employee contribution is not "picked-up" by the Employer.

32. AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS (Plan Section 4.9) (skip if after-tax voluntary Employee contributions NOT selected at Question 11.e.)

Matching after-tax voluntary Employee contributions. There are no Employer matching contributions on after-tax voluntary Employee contributions unless elected below.

- a. After-tax voluntary Employee contributions are considered elective deferrals for purposes of applying any matching contributions under the Plan.

DISTRIBUTIONS

33. FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in (select all that apply; must select at least one):

- a. lump-sums
- b. substantially equal installments
- c. partial withdrawals, provided the minimum withdrawal is \$_____ (leave blank if no minimum)

- d. partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (e.g., partial is not permitted for death benefits; leave blank if no exceptions):
1. _____
- e. annuity: Annuity Purchase (describe the form of annuity or annuities)
- f. other: _____ (must be definitely determinable and not subject to Employer discretion)

NOTE: Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

Cash or property. Distributions may be made in:

- g. cash only, except for (select all that apply; leave blank if none apply):
1. insurance Contracts
2. annuity Contracts
3. Participant loans
- h. cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):
1. _____ (must be definitely determinable and not subject to Employer discretion)

34. **CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT.** Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

A. Accounts in excess of \$5,000

- a. Distributions may be made as soon as administratively feasible following severance of employment.
- b. Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
- c. Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.
- d. Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.
- e. Distributions may be made as soon as administratively feasible after _____ months have elapsed following severance of employment.
- f. No distributions may be made until a Participant has reached Early or Normal Retirement Date.
- g. Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

B. Accounts of \$5,000 or less

- h. Same as above
- i. Distributions may be made as soon as administratively feasible following severance of employment.
- j. Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.
- k. Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

C. Timing after initial distributable event. If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 34.f and 34.h.):

- l. Other: _____ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

D. Participant consent (i.e., involuntary cash-outs). Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

NOTE: The Plan provides that distributions of amounts of \$5,000 or less are only paid as lump-sums.

- m. No, Participant consent is required for all distributions.
- n. Yes, Participant consent is required only if the distribution is over:
1. \$5,000
2. \$1,000
3. \$_____ (less than \$1,000)

NOTE: If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

Automatic IRA rollover. With respect to mandatory distributions of amounts that are \$1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4. If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least \$ _____ (e.g., \$200).

- E. **Rollovers in determination of \$5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the \$5,000 threshold for timing of distributions, form of distributions, or consent rules.
- o. Exclude rollovers (rollover contributions will be **excluded** in determining the \$5,000 threshold)

NOTE: Regardless of the above election, if the Participant consent threshold is \$1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

35. DISTRIBUTIONS UPON DEATH (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

- a. be made pursuant to the election of the Participant or "designated Beneficiary"
- b. begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2
- c. be made within 5 (or if lesser _____) years of death for all Beneficiaries
- d. be made within 5 (or if lesser _____) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

NOTE: The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

36. OTHER PERMITTED DISTRIBUTIONS (select all that apply; leave blank if none apply)

A. IN-SERVICE DISTRIBUTIONS (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

- a. In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied:
1. Age. The Participant has reached:
 - a. Normal Retirement Age
 - b. age 62
 - c. age 70 1/2 (may not be earlier than age 62)

Special effective date (may be left blank if same as Plan or Restatement Effective Date)

- d. _____ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than the first day of the Plan Year beginning in 2007)

Account restrictions. In-service distributions are permitted from the following Participant Accounts:

- b. all Accounts
- c. only from the following Accounts (select one or more):
1. Account attributable to Employer matching contributions
 2. Account attributable to Employer contributions other than matching contributions
 3. Rollover Account
 4. Transfer Account
 5. Other: _____ (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulations §1.401-1(b) and is not subject to Employer discretion)

Limitations. The following limitations apply to in-service distributions:

- d. N/A (no additional limitations)
- e. Additional limitations (select one or more):
1. The minimum amount of a distribution is \$ _____.
 2. No more than _____ distribution(s) may be made to a Participant during a Plan Year.
 3. Distributions may only be made from Accounts which are fully Vested.
 4. In-service distributions may be made subject to the following provisions: For Distributions occurring the later of: (1) on or after January 1, 1998, (2) effective date of the plan, (3) the effective date of the first fee agreement with Nationwide Life Insurance Company services (or its predecessor after the date such predecessor was acquired by Nationwide Life Insurance Company); age 70 1/2 and any election by a Participant to receive a distribution pursuant to this Section shall constitute a Required Minimum Distribution under Section 6.8 of the Plan. (must satisfy the definitely determinable requirement under Regulations §1.401-1(b) and not be subject to Employer discretion).

37. HEART ACT PROVISIONS (Plan Section 6.17)

Continued benefit accruals.

- a. Continued benefit accruals will NOT apply
- b. Continued benefit accruals will apply

Special effective date. If this is a PPA restatement and the provision applied other than as of the first day of the 2007 Plan Year, then enter the date such provision was first effective: (leave blank if not applicable)

- c. _____ (may not be earlier than the first day of the 2007 Plan Year)

Distributions for deemed severance of employment

- d. The Plan does NOT permit distributions for deemed severance of employment
- e. The Plan permits distributions for deemed severance of employment

Special effective date (may be left blank if same as Plan or Restatement Effective Date)

- 1. _____ (if this is a PPA restatement and the provisions were effective prior to the Restatement Effective Date, then enter the date such provisions were first effective; may not be earlier than January 1, 2007)

MISCELLANEOUS

38. LOANS TO PARTICIPANTS (Plan Section 7.6)

- a. New loans are NOT permitted.
- b. New loans are permitted.

NOTE: Regardless of whether new loans are permitted, if the Plan permits rollovers, then the Administrator may, in a uniform manner, accept rollovers of loans into this Plan.

39. ROLLOVERS (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)

Eligibility. Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):

- a. Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant
- b. Participants who are Former Employees

Distributions. When may distributions be made from a Participant's Rollover Account?

- c. At any time
- d. Only when the Participant is otherwise entitled to a distribution under the Plan

PPA TRANSITION RULES

The following questions only apply if this is a PPA restatement (i.e., Question 5.b.1. is selected). If this is not a PPA restatement, then this Plan will not be considered an individually designed plan merely because the following questions are deleted from the Adoption Agreement.

NOTE: The following provisions are designed to be left unanswered if the selections do not apply to the Plan.

40. WRERA - RMD WAIVERS FOR 2009 (Plan Section 6.8(f))

Suspension/continuation of RMDs. Unless otherwise elected below, required minimum distributions (RMDs) for 2009 were suspended unless a Participant or Beneficiary elected to receive such distributions:

- a. RMDs for 2009 were suspended for any Participant or Beneficiary who was scheduled to receive his/her first RMD for 2009 or who did not make a continuing election prior to 2009 to receive his/her RMD (unless the Participant or Beneficiary made an election to receive such distribution). RMDs for 2009 were continued for any Participant or Beneficiary who had made a continuing election to receive an RMD prior to 2009 (unless the Participant or Beneficiary made an election to suspend such distribution).
- b. RMDs continued unless otherwise elected by a Participant or Beneficiary.
- c. RMDs continued in accordance with the terms of the Plan (i.e., no election available to Participants or Beneficiaries).
- d. Other: _____

Direct rollovers. The Plan also treated the following as "eligible rollover distributions" in 2009 (If no election is made, then a "direct rollover" was only offered for "2009 RMDs"):

- e. "2009 RMDs" and "Extended 2009 RMDs."
- f. "2009 RMDs" but only if paid with an additional amount that is an "eligible rollover distribution" without regard to Code §401(a)(9)(H).

41. NON-SPOUSAL ROLLOVERS (Plan Section 6.14(d)). Non-spousal rollovers are permitted effective for distributions after December 31, 2006 unless an alternative effective date is selected at a. below:

- a. Non-spousal rollovers are allowed effective _____ (may not be earlier than January 1, 2007 and not later than January 1, 2010; the Plan already provides for non-spousal rollovers effective as of January 1, 2010)

Governmental Money Purchase Plan

The adopting Employer may rely on an advisory letter issued by the Internal Revenue Service as evidence that the Plan is qualified under Code §401 only to the extent provided in Rev. Proc. 2011-49 or subsequent guidance.

The Employer may not rely on the advisory letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the advisory letter issued with respect to the Plan and in Rev. Proc. 2011-49 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

This Adoption Agreement may be used only in conjunction with the Volume Submitter basic Plan document #09. This Adoption Agreement and the basic Plan document will together be known as Nationwide Financial Services, Inc. Governmental Volume Submitter Money Purchase Plan #09-002.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Nationwide Financial Services, Inc. will notify the Employer of any amendments made to the Plan or of the discontinuance or abandonment of the Plan. Furthermore, in order to be eligible to receive such notification, the Employer agrees to notify Nationwide Financial Services, Inc. of any change in address. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Nationwide Financial Services, Inc. no longer has any obligations to the Employer that relate to the adoption of this Plan.

With regard to any questions regarding the provisions of the Plan, adoption of the Plan, or the effect of an advisory letter from the IRS, call or write (this information must be completed by the sponsor of this Plan or its designated representative):

Name: Nationwide Retirement Solutions

Address: P.O. Box 182797

Columbus Ohio 43218

Telephone: 877-496-1630

The Employer and Trustee (or Insurer) hereby cause this Plan to be executed on the date(s) specified below:

EMPLOYER: City of Avondale

By: _____ DATE SIGNED _____

TRUSTEE (OR INSURER):

[] The signature of the Trustee or Insurer appears on a separate agreement or Contract,

OR (add additional Trustee signature lines as necessary)

Nationwide Life Insurance

_____ TRUSTEE OR INSURER _____ DATE SIGNED _____

**APPENDIX A
SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS**

A. Special effective dates (leave blank if not applicable):

- a. **Special effective date(s):** _____ . For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law.

B. Other permitted elections (the following elections are optional):

- a. **No other permitted elections**

The following elections apply (select one or more):

- b. **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.
- c. **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(d)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
 1. eligibility purposes
 2. vesting purposes
- d. **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(e)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(e), the following order of priority will be used: _____ (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).
- e. **Common, collective or pooled trust funds** (Plan Sections 7.2(c)(5) and/or 7.3(b)(6)). The name(s) of the common, collective or pooled trust funds available under the Plan is (are): _____.
- f. **Limitation Year** (Plan Section 1.29). The Limitation Year for Code §415 purposes will be _____ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.
- g. **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(1)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:
 1. Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts": _____.
- h. **Recognition of Service with other employers** (Plan Sections 1.39 and 1.54). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):

	Eligibility	Vesting	Contribution Allocation
1. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
2. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
3. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
4. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
5. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
6. <input type="checkbox"/> Employer name: _____	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>
Limitations			
7. <input type="checkbox"/> The following provisions or limitations apply with respect to the recognition of prior service: _____ (e.g., credit service with X only on/following 1/1/13)	a. <input type="checkbox"/>	b. <input type="checkbox"/>	c. <input type="checkbox"/>

- i. **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):
1. **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan: _____ (must be definitely determinable and satisfy the parameters set forth at Question 17)
 2. **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d. AND complete e.):

Applicable Participants. The vesting schedules in Question 17 only apply to:

- a. Participants who are Employees as of _____ (enter date).
- b. Participants in the Plan who have an Hour of Service on or after _____ (enter date).
- c. Participants (even if not an Employee) in the Plan on or after _____ (enter date).
- d. Other: _____ (e.g., Participants in division A)

Vesting schedule

e. The schedule that applies to Participants not subject to the vesting schedule in Question 17 is:

Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

- j. **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))

NOTE: This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.

The "required beginning date" for a Participant is:

1. April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
2. April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
 - a. A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of _____ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the commencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
 1. N/A (annuity distributions are not permitted)
 2. Upon the commencement of distributions, the original Annuity Starting Date will be retained.
 3. Upon the commencement of distributions, a new Annuity Starting Date is created.
 - b. A Participant who had not begun receiving required minimum distributions as of _____ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
 1. The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.

- k. **Other spousal provisions** (select one or more)

1. **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following: _____
2. **Automatic revocation of spousal designation** (Plan Section 6.2(f)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
3. **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.

- l. **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: _____

- m. **Total and Permanent Disability.** Instead of the definition at Plan Section 1.49, Total and Permanent Disability means: _____ (must be definitely determinable).

Governmental Money Purchase Plan

- n. **Permissible Trust (or Custodian) modifications.** The Employer makes the following modifications to the Trust (or Custodial) provisions as permitted under Rev. Proc. 2011-49 (or subsequent IRS guidance) (select one or more of 1. - 3. below):

NOTE: Any elections below must not: (i) conflict with any Plan provision unrelated to the Trust or Trustee; or (ii) cause the Plan to violate Code §401(a). In addition, this may not be used to substitute all of the Trust provisions in the Plan.

1. **Investments.** The Employer amends the Trust provisions relating to Trust investments as follows:

-
2. **Duties.** The Employer amends the Trust provisions relating to Trustee (or Custodian) duties as follows:

-
3. **Other administrative provisions.** The Employer amends the other administrative provisions of the Trust as follows:
-

ADMINISTRATIVE PROCEDURES

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

- A. **Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)
- a. Limitations (select one or more):
 1. Loans will be treated as Participant directed investments.
 2. Loans will only be made for hardship or financial necessity as specified below (select i. or ii.)
 - a. hardship reasons specified in Plan Section 6.12
 - b. financial necessity (as defined in the loan program).
 3. The minimum loan will be \$_____.
 4. A Participant may only have _____ (e.g., one (1)) loan(s) outstanding at any time.
 5. All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
 6. **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
 - a. Account(s) attributable to Employer matching contributions
 - b. Account attributable to Employer contributions other than matching contributions
 - c. Rollover Account
 - d. Transfer Account
 - e. Other: _____
- AND**, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:
- f. by determining the limits by only considering the restricted accounts.
 - g. by determining the limits taking into account a Participant's entire interest in the Plan.

Additional Loan Provisions (select all that apply; leave blank if none apply)

- b. **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
 1. payroll deduction
 2. ACH (Automated Clearing House)
 3. check
 - a. Only for prepayment
 - c. **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
 1. _____ percentage points over the prime interest rate
 2. _____%
 3. the Administrator establishes the rate at the time the loan is made
 - d. **Refinancing.** Loan refinancing is allowed.
- B. **Life Insurance.** (Plan Section 7.5)
- a. Life insurance may not be purchased.
 - b. Life insurance may be purchased...
 1. at the option of the Administrator
 2. at the option of the Participant

Limitations

3. N/A (no limitations)
 4. The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
 - a. Each initial Contract will have a minimum face amount of \$_____.
 - b. Each additional Contract will have a minimum face amount of \$_____.
 - c. The Participant has completed _____ Years (or Periods) of Service.
 - d. The Participant has completed _____ Years (or Periods) of Service while a Participant in the Plan.
 - e. The Participant is under age _____ on the Contract issue date.
 - f. The maximum amount of all Contracts on behalf of a Participant may not exceed \$_____.
 - g. The maximum face amount of any life insurance Contract will be \$_____.
- C. **Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?
- a. No
 - b. Yes

D. **Directed investments**

- a. Participant directed investments are NOT permitted.
- b. Participant directed investments are permitted from the following Participant Accounts:
 - 1. all Accounts
 - 2. only from the following Accounts (select one or more):
 - a. Account attributable to Employer contributions
 - b. Rollover Account
 - c. Transfer Account
 - d. Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

E. **Rollover Limitations.** Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

- a. No, Administrator determines in operation which sources will be accepted.
- b. Yes

Rollover sources. Indicate the sources of rollovers that will be accepted (select one or more)

- 1. **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
 - a. a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
 - b. a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
 - c. a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
 - d. a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
 - e. a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
 - f. a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
 - g. a plan described in Code §457(b) (eligible deferred compensation plan)

Direct Rollovers of Participant Loan. The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)

- h. The Plan will accept a direct rollover of a Participant loan
- i. The Plan will only accept a direct rollover of a Participant loan only in the following situation(s): _____ (e.g., only from Participants who were employees of an acquired organization).

- 2. **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):
 - a. a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
 - b. a plan described in Code §403(a) (an annuity plan)
 - c. a plan described in Code §403(b) (a tax-sheltered annuity)
 - d. a governmental plan described in Code §457(b) (eligible deferred compensation plan)
- 3. **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.

NATIONWIDE FINANCIAL SERVICES, INC. VOLUME SUBMITTER MODIFICATIONS

CITY OF AVONDALE
401(A) PLAN

The enclosed Plan is being submitted for expedited review as a Volume Submitter Plan.

No modifications from the approved specimen plan have been made to this Plan.



CITY COUNCIL AGENDA

SUBJECT:

Resolution 3306-416 - Amendment to Nationwide
457 Deferred Compensation Plan to Add a Roth
Option

MEETING DATE:

4/4/2016

TO: Mayor and Council**FROM:** Cherlene Penilla, Human Resources Director**THROUGH:** David Fitzhugh, City Manager**PURPOSE:**

Staff is requesting that Mayor and Council authorize the City Manager to review and approve the proposed addition of a Roth option to the Nationwide deferred compensation plan (457) adopted by the City in 1994.

BACKGROUND:

The City currently provides two deferred compensation plans to employees. (Nationwide and ICMA) Employee participation in the 457 deferred compensation plan is completely voluntary. Contributions to the deferred compensation plans are made by employees through payroll deductions.

DISCUSSION:

During negotiations with the Police and Fire associations requests were made to have the City participate in other deferral options under the 457 Plan. The Roth contribution option permits deferrals, which are made on an after tax basis. Roth deferrals and associated earnings can be withdrawn tax-free in retirement. Under the 457 plan, an employee can designate a portion or all of their contributions to the plan as Roth.

The benefits of Roth contributions for employees are:

- Higher after tax contribution limits than Roth IRAs – 457 plans allow for greater after tax savings
- Eligibility at all income levels – Unlike Roth IRAs, everyone with earned income is able to make Roth contributions to their employer's 457 plans.

Having both pre-tax assets and Roth assets available in retirement can be a valuable benefit, allowing employees to choose the source of funds most advantageous to an individual's situation in retirement.

This benefit will be made available to all City employees during open enrollment in the first two weeks of May 2016. The employee may begin their contributions to the plan beginning in the first pay period of the new fiscal year 2016/2017.

There is no financial impact to the City and execution of a plan document is all that is required to make this option available to City employees.

BUDGET IMPACT:

There is no budgetary impact to the City for participation in the 457 Roth option.

RECOMMENDATION:

Staff recommends that the Mayor and City Council authorize the City Manager to review and approve, the proposed amendment to the Nationwide deferred compensation 457 plan adding the Roth option.

ATTACHMENTS:

Description

[Resolution 3306-416](#)

RESOLUTION NO. 3306-416

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN AMENDMENT TO THE CITY OF AVONDALE 457 DEFERRED COMPENSATION PLAN TO PERMIT IN-PLAN ROTH TRANSFERS.

WHEREAS, the City of Avondale (the “City”) has established a 457 Deferred Compensation Plan (the “Plan”) for eligible City employees; and

WHEREAS, the City established the Plan to (i) provide reasonable retirement security for eligible City employees, (ii) provide increased flexibility in the City’s personnel management system and (iii) assist the City in the attraction and retention of competent personnel; and

WHEREAS, the City has determined that permitting eligible Plan participants to transfer funds into a Roth account in the Plan will serve the City’s objectives and goals; and

WHEREAS, the Mayor and Council of the City of Avondale (the “City Council”) desire to amend the Plan to permit In-Plan Roth transfers.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The In-Plan Roth Rollover Amendment to the Deferred Compensation Plan for Public Employees 457(b) Governmental Plan and Trust (the “Amendment”) is hereby adopted in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Amendment and to take all steps necessary to carry out the purpose and intent of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, April 4, 2016.

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 3306-416

[Amendment]

See following pages.



Nationwide Retirement Solutions
In-Plan Roth Rollover Amendment to the Deferred Compensation Plan
for Public Employees 457(b) Governmental Plan and Trust

ARTICLE I
PREAMBLE

- 1.1 **Effective date of Amendment.** The Employer adopts this Amendment to the Plan to permit In-Plan Roth Transfers, as set forth herein. This Amendment is effective as of the Effective Date specified below.
- 1.2 **Eligible governmental 457(b) plan** - The Employer is an eligible employer as defined in Code §457(e)(1) (A).
- 1.3 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.4 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

ARTICLE II
ELECTIONS

Select A, B or both depending on whether the Employer elects to adopt In-Plan Roth Transfers for amounts otherwise non-distributable (election A), In-Plan Roth Rollover for amounts otherwise distributable (election B) or both (election A and B).

A. The following section the Employer adopts this Amendment to the Plan under the American Taxpayer Relief Act of 2012 ("ATRA") to permit participants with amounts that are **otherwise Non-distributable** to transfer (e.g., conversion) part or all of a non-Roth account to a Roth account in the Plan, in accordance with the provisions of this Amendment.

2.1 **Effective Date.** This Amendment is effective: _____ (enter date not earlier than January 1, 2013)

2.2 **In-Plan Roth Transfers.** Any Participant may elect an In-Plan Roth Transfer as elected below:

Source of In-Plan Roth Transfer. The Plan permits a transfer from the following qualifying sources:

- a. The Vested portion of any Account
- b. Only from the Vested portion of the following accounts (select one or more):
 - 1. Pre-Tax Elective Deferral Account.
 - 2. Account(s) attributable to Employer matching contributions.
 - 3. Account attributable to Employer profit sharing contributions.
 - 4. Rollover Account.
 - 5. Other _____ (specify account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion (e.g., a Participant's Pre-tax Deferral Account or Matching Contribution Account, but not the Participant's Nonelective Contribution Account))

Other limitations on In-Plan Roth Transfer:

- c. No other limitations.
- d. The following limitations apply (select one or more):
 - 1. The minimum amount that may be transferred is \$_____ (may not exceed \$1,000).
 - 2. Transfers may only be made from accounts which are fully Vested. (Note: If this option is not elected and an In-Plan Roth Transfer is made from a partially-vested account, then the formula at Amendment Section 3.4.4 will apply).
 - 3. No more than _____ transfer(s) may be made during a Plan Year.
 - 4. Only Participants who are Employees may elect an In-Plan Roth Transfer.
 - 5. Transfers may be made subject to the following provisions (describe): _____ (must be definitely determinable and not subject to Employer or Administrator discretion).

B. The following section the Employer adopts this Amendment to the Plan under the Small Business Jobs Act of 2010 (“SBJA”) to permit participants with amounts that are **otherwise distributable** to transfer (e.g., conversion) part or all of a non-Roth account to a Roth account in the Plan, in accordance with the provisions of this Amendment.

2.3 Effective Date. This Amendment is effective: _____.
(Enter date not earlier than January 1, 2011.)

2.4 In-Plan Roth Rollovers.

Eligibility and Type of Rollover. Any Participant may elect an In-Plan Roth Rollover by direct rollover except that, if elected below, a Participant must also be an Employee at the time of the In-Plan Roth Rollover. *(select if applicable)*

- a. **In-service distribution only.** Only Participants who are Employees may elect an In-Plan Roth Rollover.

No transfer of loans. Loans may not be distributed as part of an In-Plan Roth Rollover.

In-service distribution provisions. The Employer elects the following regarding in-service distributions from the Plan **solely** for purposes of making an In-Plan Roth Rollover *(choose either c. or d.):*

- b. **N/A. Existing in-service distribution provisions apply.** The Plan’s existing in-service distribution provisions apply. *(May only be elected if Plan permits in-service distributions – if selected, the remaining Options in this Section 2.4 do not apply.)*
- c. **In-service distribution provisions.** The Employer elects to permit in-service distributions when the Participant has attained age _____ **solely** for purposes of making an In-Plan Roth Rollover. *(May not be less than age 70½.)*

Source of In-Plan Roth Rollover. The Plan permits a direct rollover from any qualifying source.

Other limitations on direct In-Plan Roth Rollover *(select one or more of 1. through 3; leave blank if not applicable):*

- 1. The minimum amount that may be rolled over is \$_____ (may not exceed \$1,000).
- 2. Distributions may only be made from accounts which are fully Vested.

Note: If an In-Plan Roth Rollover is made from a partially-vested account, then the formula at Amendment Section 3.5.4 will apply).

- 3. In-service distributions may be made subject to the following provisions: (describe): _____ (must be definitely determinable and not subject to discretion).

Additional distribution for withholding. If the Plan does not permit an actual distribution upon the event triggering the right to elect the In-Plan Roth Rollover, then a Participant may not elect to have an amount distributed for tax withholding purposes unless elected below:

4. [] **Distribution for withholding also permitted.** A Participant may elect to take a distribution solely for purposes of federal or State income tax withholding related to the In-Plan Roth Rollover.

ARTICLE III AMENDMENT PROVISIONS

- 3.1 Right to elect In-Plan Roth Transfer.** A Participant, Spousal Beneficiary, or Spousal Alternate Payee may elect to transfer amounts to an In-Plan Roth Transfer Account in accordance with the provisions of the Plan and this Amendment. In-Plan Roth Transfers will be subject to the taxation provisions and separate accounting requirements that apply to designated Roth accounts. Furthermore, the Participant shall be fully Vested in the portion of his her account attributable to the In-Plan Roth Transfer.
- 3.2 Form of transfer.** The Plan will transfer investments to the Participant's In-Plan Roth Transfer Account in accordance with the Plan terms and procedures governing Plan investments. A Participant loan may not be transferred and will remain part of the Participant's Account from which the loan was initiated.
- 3.3 Treatment of In-Plan Roth Transfers**
- 3.3.1 No distribution treatment.** An In-Plan Roth Transfer is not a Plan distribution. Accordingly, the Plan may not withhold or distribute any amounts for income tax withholding, unless a distribution of other amounts is permitted pursuant to the terms of the Plan.
- 3.3.2 Withdrawal of In-Plan Roth Transfers.** A Participant may withdraw amounts from the Participant's In-Plan Roth Transfer Account only when the Participant is eligible for a distribution from the Plan account that is the source of the In-Plan Roth Transfer. This Amendment does not expand or eliminate any distribution rights or restrictions on amounts that a Participant elects to treat as an In-Plan Roth Transfer.
- 3.3.3 Loans.** If Participant loans are permitted under the Plan, the loan shall be made only from the Pre-Tax Deferral Account, Employer Contribution Accounts and/or, any Rollover Accounts that are not attributable to After-Tax Rollover Accounts (including rollovers of Roth accounts). Loans will be funded in the following order: (i) Pre-Tax Deferral Account, (ii) eligible Rollover Accounts, (iii) fully vested Employer Contribution Accounts, and (iv) the vested portion of the partially vested Employer Contribution Accounts. After tax money sources will be included in the calculation of the Participant's account for the sole purpose of calculating the availability for a loan; however, after-tax money sources shall not be available for the funding of any loans.
- 3.4 Definitions and other rules**
- 3.4.1 In-Plan Roth Transfer.** An In-Plan Roth Transfer means an amount that a Participant elects to transfer from a Plan Account, other than a designated Roth Account, into an In-Plan Roth Transfer Account, in accordance with Code §402A(c)(4)(A) and §402A(c)(4)(E) and this Amendment. An In-Plan Roth Transfer may only be made with respect to amounts that are not distributable under the terms of the Plan.
- 3.4.2 In-Plan Roth Transfer Account.** An In-Plan Roth Transfer Account is a sub-account the Plan Administrator establishes for the purpose of separately accounting for a Participant's Transfers attributable to the Participant's In-Plan Roth Transfers. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Transfer. The Plan Administrator will administer an In-Plan Roth Transfer Account as provided by IRS guidance and the Plan provisions, including the provisions of this Amendment.
- 3.4.3 Participant includes certain alternate payees.** For purposes of eligibility for an In-Plan Roth Transfer, the Plan will treat a Participant's alternate payee spouse or former spouse who is not an Employee as a Participant (unless the right to elect an In-Plan Roth Transfer is limited to Employees).

3.4.4 Distribution from partially Vested account. Transfers (i.e., the source of the In-Plan Roth Transfer amounts) are permitted only from fully Vested amounts allocated to a qualifying source as identified in Amendment Section 2.2.

* * * * *

This Amendment has been executed this _____ day of _____, _____.

Name of Plan: _____

Name of Employer: _____

By: _____

EMPLOYER

Retirement Specialists are Registered Representatives of Nationwide Investment Svcs. Corporation, Member FINRA. Nationwide Mutual Insurance Company and Affiliated Companies, Home Office: Columbus, OH 43215-2220.

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NRN-1241AO (01/16)



CITY COUNCIL AGENDA

SUBJECT:

Construction Contract Award - DNG Construction, LLC for Improvements at Friendship Park

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Tracy Stevens, Development & Engineering Services Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff is requesting that the City Council approve a Construction Contract with DNG Construction, LLC. for improvements at Friendship Park in the amount of \$3,004,427.07, authorize the transfer of \$1,450,000.00 from CIP Park Fund Line Item 310-1105-00-8210, Festival Fields to CIP Park Fund Line Item 310-1027-00-8210, Friendship Park and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

On April 1, 2013, City Council approved a Professional Services Agreement (PSA) with Logan Simpson to provide schematic design services for improvements at Friendship Park. On October 21, 2013, City Council approved Amendment 1 to develop the design documents and provide post design services. On July 7, 2014, City Council approved Amendment 2 to prepare design development and construction documents. This Phase of the project included the revised plan with a splash pad. On April 6, 2015, City Council approved Amendment 3 for preconstruction, construction administration, and post-construction services.

This past summer, the project was advertised and two bids were received. As both bids were over the available project budget, they were rejected. Staff reassessed the project and provided recommendations to City Council at the September 21, 2015 Work Session. City Council supported staff recommendation to increase the construction budget and modify the design as follows:

- Splash pad with shade incorporated and new restroom facility
- Renovating the north restroom near the lake
- 6 new picnic shelters (4 near the splash pad and 2 east of the lake)
- Additional parking of approximately 100 spaces
- Replacing 2 playgrounds with additional shade and protective and accessible surface
- Fencing along the south side of the soccer fields between the maintenance yard and tennis courts
- Trees, landscape plants, picnic tables, trash receptacles, and site amenities
- Irrigation system modifications
- Installation of Gallery 37 public art

DISCUSSION:

BID PROCESS:

Requests-for-Bid notices were published in the West Valley View on March 2 and March 9, 2016 and

the Arizona Business Gazette on March 3, 2016. The Development and Engineering Services Department held a non-mandatory pre-bid meeting on March 10, 2016. Three (3) bids were received and opened on March 23, 2016. Each bid package was reviewed and two (2) bidders met the bidding requirements. The firms meeting requirements and the amount of their bids are as follows:

BIDDER	BASE BID AMOUNT	BID ALT No. 1 AMOUNT	BID ALT No. 2 AMOUNT	BID ALT No. 3 AMOUNT	BID ALT No. 4 AMOUNT
DNG Construction	\$3,004,427.07	\$231,637.64	\$38,731.93	\$37,660.81	\$33,615.00
SDB, Inc.	\$3,329,123.84	\$148,000.00	\$35,360.00	\$27,718.00	\$42,300.00

Notes:

- Bid Alt #1 - Pathway Light Poles
- Bid Alt #2 - McDowell Rd Monument Sign
- Bid Alt #3 - Increase tree caliper size
- Bid Alt #4 - Tree allowance

DNG Construction, LLC. with a bid of \$3,004,427.07 was determined to have submitted the lowest, responsible and qualified bid. Staff contacted references and believes DNG Construction, LLC. to be competent and qualified for this project. DNG Construction, LLC. has successfully completed similar work for other local government agencies. Staff contacted the Registrar of Contractors and found no claims on file against this Contractor.

The bid tabulation sheet which provides a detailed, bid item breakdown of each submitted bid is attached.

SCHEDULE:

A tentative construction schedule is as follows:

PROJECT MILESTONES	TARGET DATES
Issue Notice of Award	04/05/16
Pre-Construction Conference	04/13/16
Issue Notice-to-Proceed	04/14/16
Begin Construction	04/18/16
Friendship Park Closed to Public	06/20/16
Anticipated Completion	08/30/16
Friendship Park Open to the Public	09/02/16

BUDGET IMPACT:

Funding in the amount of \$205,000.00 is available in CIP Park Fund Line Item 310-1027-00-8210, Friendship Park. Funding in the amount of \$1,450,000.00 is proposed to be transferred from CIP Park Fund Line Item 310-1105-00-8210, Festival Fields to CIP Park Fund Line Item 310-1027-00-8210, Friendship Park. An additional \$1,350,000.00 will be available in FY17 in CIP Park Fund Line Item 310-1027-00-8210, Friendship Park; for a total of \$3,005,000.00 available for this project.

RECOMMENDATION:

Staff recommends that the City Council approve a Construction Contract with DNG Construction, LLC. for improvements at Friendship Park in the amount of \$3,004,427.07, authorize the transfer of \$1,450,000.00 from CIP Park Fund Line Item 310-1105-00-8210, Festival Fields to CIP Park Fund Line Item 310-1027-00-8210, Friendship Park and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Description

[Bid Tab](#)

[Contract](#)



CITY OF AVONDALE
 BID TABULATION SHEET
 IFB PR16-024 Friendship Park Improvements Project
 BID DATE: March 23, 2016

Item	Description of Material and/or Services	Qty	Unit	SDB		DNG		CS LEGACY CONSTRUCTION	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
	GENERAL SITE							NON-RESPONSIVE	
105.30010	As-built Documentation	1	LS	\$2,100.00	\$2,100.00	\$1,792.83	\$1,792.83		\$0.00
105.08000	Construction Staking, Survey, and Layout	1	LS	\$7,900.00	\$7,900.00	\$50,566.88	\$50,566.88		\$0.00
107.01001	Stormwater Pollution Plan (SWPPP)	1	LS	\$28,000.00	\$28,000.00	\$23,795.16	\$23,795.16		\$0.00
107.01002	Permits	1	LS	\$4,000.00	\$4,000.00	\$16,089.46	\$16,089.46		\$0.00
107.15000	Community Relations (Allowance)	1	ALLOW	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00		\$0.00
109.10010	Mobilization/Demobilization	1	LS	\$161,000.00	\$161,000.00	\$55,877.55	\$55,877.55		\$0.00
109.50010	Miscellaneous Reimbursable (Allowance)	1	ALLOW	\$250,000.00	\$250,000.00	\$250,000.00	\$250,000.00		\$0.00
201.00010	Clearing and Grubbing	1	LS	\$7,600.00	\$7,600.00	\$5,127.94	\$5,127.94		\$0.00
205.00001	Excavation and Grading	2,160	CY	\$29.00	\$62,640.00	\$37.28	\$80,524.80		\$0.00
220.00002	Rip Rap (Grouted)	56	SY	\$27.00	\$1,512.00	\$60.34	\$3,379.04		\$0.00
321.00103	3" Thick Asphalt Paving over 6" compacted ABC	3,300	SY	\$27.00	\$89,100.00	\$24.60	\$81,180.00		\$0.00
321.00104	3" Thick Asphalt Paving over 8" compacted ABC	2,700	SY	\$31.00	\$83,700.00	\$25.31	\$68,337.00		\$0.00
332.00101	Crack Sealing and Slurry Seal (Type II) Existing Asphalt Pavement to Remain	28,000	SY	\$1.90	\$53,200.00	\$2.59	\$72,520.00		\$0.00
340.00417	6" Thick Concrete Walkway	23,000	SF	\$4.40	\$101,200.00	\$4.08	\$93,840.00		\$0.00
340.02241	Curb Opening	1	EA	\$19.00	\$19.00	\$57.46	\$57.46		\$0.00
340.02242	6" High Concrete Curb and Gutter	2,800	LF	\$16.50	\$46,200.00	\$13.99	\$39,172.00		\$0.00
340.02243	Accessible Concrete Ramp (Pedestrian)	150	LF	\$126.00	\$18,900.00	\$93.16	\$13,974.00		\$0.00
340.02244	6" Concrete Header	630	LF	\$9.50	\$5,985.00	\$8.32	\$5,241.60		\$0.00
340.02245	12" Deep Concrete Header	50	LF	\$17.00	\$850.00	\$23.58	\$1,179.00		\$0.00
340.02246	12" Wide Concrete Mow Strip	52	LF	\$21.00	\$1,092.00	\$19.27	\$1,002.04		\$0.00
340.02247	Valley Gutter and Apron	160	SF	\$8.50	\$1,360.00	\$11.78	\$1,884.80		\$0.00
342.00001	Concrete Unit Paver	2,645	SF	\$4.80	\$12,696.00	\$5.75	\$15,208.75		\$0.00
350.00301	Site Demolition and Removals (Paving, Curbs, Gutters, Sidewalks and other structures)	1	LS	\$43,400.00	\$43,400.00	\$77,232.86	\$77,232.86		\$0.00



CITY OF AVONDALE
 BID TABULATION SHEET
 IFB PR16-024 Friendship Park Improvements Project
 BID DATE: March 23, 2016

Item	Description of Material and/or Services	Qty	Unit	SDB		DNG		CS LEGACY CONSTRUCTION	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
401.01000	Traffic Control	1	LS	\$34,000.00	\$34,000.00	\$3,447.74	\$3,447.74		\$0.00
410.00073	Precast Concrete Wheel Stop	4	EA	\$75.00	\$300.00	\$57.46	\$229.84		\$0.00
420.00101	6' High Chain Link Fence	1,910	LF	\$19.50	\$37,245.00	\$27.47	\$52,467.70		\$0.00
420.00103	4' High Welded Wire Fence	275	LF	\$45.00	\$12,375.00	\$35.63	\$9,798.25		\$0.00
420.00104	4' Wide Welded Wire Gate	2	EA	\$575.00	\$1,150.00	\$1,264.17	\$2,528.34		\$0.00
430.04104	Decomposed Granite (2" Deep)	71,788	SF	\$0.58	\$41,637.04	\$0.46	\$33,022.48		\$0.00
430.04105	Compacted Decomposed Granite	1,315	SF	\$0.80	\$1,052.00	\$1.09	\$1,433.35		\$0.00
430.04106	Rock	1,690	SF	\$3.80	\$6,422.00	\$0.72	\$1,216.80		\$0.00
430.04107	Turf (Sod with soil amendments)	17,984	SF	\$0.70	\$12,588.80	\$0.72	\$12,948.48		\$0.00
430.05006	Shrub (5 gallon)	418	EA	\$19.00	\$7,942.00	\$12.64	\$5,283.52		\$0.00
430.05007	Accents (5 gallon)	106	EA	\$21.00	\$2,226.00	\$20.69	\$2,193.14		\$0.00
430.05037	Tree (24" Box)	53	EA	\$230.00	\$12,190.00	\$212.61	\$11,268.33		\$0.00
430.05038	Tree (48" Box)	28	EA	\$1,800.00	\$50,400.00	\$1,321.63	\$37,005.64		\$0.00
440.00246	CLASS 200 6" Mainline	1,700	LF	\$19.00	\$32,300.00	\$8.33	\$14,161.00		\$0.00
440.00247	CLASS 200 8" Mainline	410	LF	\$19.00	\$7,790.00	\$16.38	\$6,715.80		\$0.00
440.00248	CLASS 200 10" Mainline	180	LF	\$22.00	\$3,960.00	\$32.18	\$5,792.40		\$0.00
440.00331	SCH 40 4" Mainline	1,100	LF	\$6.20	\$6,820.00	\$5.46	\$6,006.00		\$0.00
440.00411	Drip Laterals	12,030	LF	\$0.90	\$10,827.00	\$1.72	\$20,691.60		\$0.00
440.00412	Turf Laterals	1,090	LF	\$1.90	\$2,071.00	\$2.01	\$2,190.90		\$0.00
440.00413	Irrigation Sleeves	940	LF	\$6.20	\$5,828.00	\$4.02	\$3,778.80		\$0.00
440.04201	Drip Control Valve	9	EA	\$200.00	\$1,800.00	\$258.58	\$2,327.22		\$0.00
440.04202	Turf Control Valve	15	EA	\$230.00	\$3,450.00	\$316.04	\$4,740.60		\$0.00
440.04203	Quick Coupler Valve	4	EA	\$290.00	\$1,160.00	\$172.39	\$689.56		\$0.00



CITY OF AVONDALE
 BID TABULATION SHEET
 IFB PR16-024 Friendship Park Improvements Project
 BID DATE: March 23, 2016

Item	Description of Material and/or Services	Qty	Unit	SDB		DNG		CS LEGACY CONSTRUCTION	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
440.04401	Gate Valves	2	EA	\$1,040.00	\$2,080.00	\$1,379.10	\$2,758.20		\$0.00
440.04511	Spray Heads	11	EA	\$16.00	\$176.00	\$8.57	\$94.27		\$0.00
440.04512	Rotors (55')	6	EA	\$201.00	\$1,206.00	\$86.19	\$517.14		\$0.00
440.04513	Rotary (25')	22	EA	\$178.00	\$3,916.00	\$40.22	\$884.84		\$0.00
440.04514	Emitters	550	EA	\$12.00	\$6,600.00	\$18.39	\$10,114.50		\$0.00
440.04515	End Caps	68	EA	\$26.00	\$1,768.00	\$28.73	\$1,953.64		\$0.00
440.06125	Solar Controller	2	EA	\$1,150.00	\$2,300.00	\$2,298.49	\$4,596.98		\$0.00
440.06904	Flow Sensor/Monitor	1	EA	\$1,380.00	\$1,380.00	\$2,873.12	\$2,873.12		\$0.00
450.01001	Bollard (Removable)	7	EA	\$490.00	\$3,430.00	\$1,108.86	\$7,762.02		\$0.00
450.01002	Table (Type 1)	24	EA	\$1,020.00	\$24,480.00	\$884.92	\$21,238.08		\$0.00
450.01003	Table (Type 2)	10	EA	\$1,455.00	\$14,550.00	\$1,367.60	\$13,676.00		\$0.00
450.01004	6' Bench (Type 1)	2	EA	\$1,100.00	\$2,200.00	\$953.88	\$1,907.76		\$0.00
450.01005	6' Bench (Type 2)	2	EA	\$1,025.00	\$2,050.00	\$884.92	\$1,769.84		\$0.00
450.01006	Trash Receptacle	7	EA	\$2,370.00	\$16,590.00	\$2,216.41	\$15,514.87		\$0.00
450.01007	Recycling Receptacle	7	EA	\$2,400.00	\$16,800.00	\$2,019.39	\$14,135.73		\$0.00
450.01008	Dual Trash Receptacle	3	EA	\$2,500.00	\$7,500.00	\$2,566.65	\$7,699.95		\$0.00
450.01009	Bike Rack (Installation and Painting Only)	4	EA	\$263.00	\$1,052.00	\$143.66	\$574.64		\$0.00
450.01010	Free Standing Double BBQ	2	EA	\$735.00	\$1,470.00	\$637.83	\$1,275.66		\$0.00
450.01011	New Entry Sign	1	LS	\$15,000.00	\$15,000.00	\$7,470.11	\$7,470.11		\$0.00
450.01012	New Exit Sign	1	LS	\$6,200.00	\$6,200.00	\$5,861.16	\$5,861.16		\$0.00
450.01013	New Directional Sign (Type 1)	1	LS	\$5,050.00	\$5,050.00	\$4,711.91	\$4,711.91		\$0.00
450.01014	New Directional Sign (Type 2)	1	LS	\$5,050.00	\$5,050.00	\$4,711.91	\$4,711.91		\$0.00
450.01015	New Directional Sign (Type 3)	1	LS	\$5,050.00	\$5,050.00	\$4,711.91	\$4,711.91		\$0.00



CITY OF AVONDALE
 BID TABULATION SHEET
 IFB PR16-024 Friendship Park Improvements Project
 BID DATE: March 23, 2016

Item	Description of Material and/or Services	Qty	Unit	SDB		DNG		CS LEGACY CONSTRUCTION	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
450.01016	Modified Sign 1	1	LS	\$11,600.00	\$11,600.00	\$8,964.13	\$8,964.13		\$0.00
505.00361	Precast Concrete Seat Wall	72	LF	\$250.00	\$18,000.00	\$155.15	\$11,170.80		\$0.00
505.00362	Gabion With Precast Seat	66	LF	\$540.00	\$35,640.00	\$278.17	\$18,359.22		\$0.00
505.01683	Catch Basin/Headwall	1	EA	\$3,220.00	\$3,220.00	\$2,298.49	\$2,298.49		\$0.00
505.02065	Scupper	2	EA	\$2,200.00	\$4,400.00	\$6,007.12	\$12,014.24		\$0.00
505.02066	Modified Sidewalk Scupper	2	EA	\$1,700.00	\$3,400.00	\$6,263.40	\$12,526.80		\$0.00
540.01001	Ramada with Gabion Screens and Integral Colored Concrete	6	EA	\$56,500.00	\$339,000.00	\$47,775.74	\$286,654.44		\$0.00
540.01002	Custom Outdoor Kitchen	1	LS	\$26,600.00	\$26,600.00	\$22,651.66	\$22,651.66		\$0.00
540.01003	Outdoor Kitchen Shade Structure	2	EA	\$16,600.00	\$33,200.00	\$5,746.24	\$11,492.48		\$0.00
540.01004	Fabric Shade Structure	1	LS	\$55,500.00	\$55,500.00	\$56,668.23	\$56,668.23		\$0.00
540.01005	Splash Pad Discharge at Pond	1	LS	\$4,000.00	\$4,000.00	\$1,723.87	\$1,723.87		\$0.00
540.01006	Splash Pad	1	LS	\$359,900.00	\$359,900.00	\$245,895.23	\$245,895.23		\$0.00
540.01007	Restroom Building located near Splash Pad	1	LS	\$305,500.00	\$305,500.00	\$254,088.21	\$254,088.21		\$0.00
540.01008	Renovated Restroom	1	LS	\$88,240.00	\$88,240.00	\$89,672.31	\$89,672.31		\$0.00
610.00101	Water Service Line	200	LF	\$30.00	\$6,000.00	\$57.36	\$11,472.00		\$0.00
610.01209	Water Line Connection	1	EA	\$575.00	\$575.00	\$503.37	\$503.37		\$0.00
610.01806	Water Service Meter	1	EA	\$345.00	\$345.00	\$6,280.64	\$6,280.64		\$0.00
610.01807	Meter Box	1	EA	\$230.00	\$230.00	\$5,160.12	\$5,160.12		\$0.00
610.04022	Tapping Sleeve	1	EA	\$1,400.00	\$1,400.00	\$2,061.75	\$2,061.75		\$0.00
610.08055	Backflow Prevention Device (up to 3")	1	EA	\$2,900.00	\$2,900.00	\$1,149.25	\$1,149.25		\$0.00
610.08056	Backflow Prevention Device (3" and larger)	1	EA	\$9,800.00	\$9,800.00	\$4,022.37	\$4,022.37		\$0.00
615.04007	6" Sanitary Sewer Line	630	LF	\$46.00	\$28,980.00	\$74.51	\$46,941.30		\$0.00



CITY OF AVONDALE
 BID TABULATION SHEET
 IFB PR16-024 Friendship Park Improvements Project
 BID DATE: March 23, 2016

Item	Description of Material and/or Services	Qty	Unit	SDB		DNG		CS LEGACY CONSTRUCTION		
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	
615.04009	Force Main for Splash Pad	660	LF	\$34.50	\$22,770.00	\$60.96	\$40,233.60		\$0.00	
615.06001	Sewer Service Tap	1	EA	\$288.00	\$288.00	\$861.94	\$861.94		\$0.00	
615.07502	Sewer Cleanouts	6	EA	\$520.00	\$3,120.00	\$674.61	\$4,047.66		\$0.00	
802.01001	Conduit, Sized Per Plans, Including Trenching And Backfill	1	LS	\$39,500.00	\$39,500.00	\$52,603.34	\$52,603.34		\$0.00	
802.01002	Conductors And Bond Wires, Sized Per Plans, Complete And In Place	1	LS	\$18,400.00	\$18,400.00	\$37,272.39	\$37,272.39		\$0.00	
802.01003	Modifications and Additions To Existing Electrical Service Entrance Section And Control	2	LS	\$5,200.00	\$10,400.00	\$9,551.97	\$19,103.94		\$0.00	
802.01004	Concrete Pull Box	11	EA	\$690.00	\$7,590.00	\$201.22	\$2,213.42		\$0.00	
802.01005	LED Area Light On A (12' AG) Concrete Pole With Direct Embedded Foundation	4	EA	\$4,600.00	\$18,400.00	\$4,760.18	\$19,040.72		\$0.00	
802.01006	Remove Existing Pole and Foundation and Replace with New Single LED Pathway Light	3	EA	\$5,800.00	\$17,400.00	\$7,661.65	\$22,984.95		\$0.00	
802.01007	Replace Parking Lot Light Pole (25' AG), Reuse (1) One Existing Fixture	37	EA	\$8,350.00	\$308,950.00	\$6,566.80	\$242,971.60		\$0.00	
802.01008	Replace Parking Lot Light Pole (25' AG), Reuse (2) Two Existing Fixtures	1	EA	\$8,050.00	\$8,050.00	\$6,566.80	\$6,566.80		\$0.00	
802.01009	LED Ramada Light And Receptacle	7	EA	\$750.00	\$5,250.00	\$1,491.72	\$10,442.04		\$0.00	
802.01010	LED Column Mounted Uplight	8	EA	\$575.00	\$4,600.00	\$996.40	\$7,971.20		\$0.00	
802.01011	New Parking Lot Light Pole (25' AG) and New Light Fixture	5	EA	\$7,500.00	\$37,500.00	\$3,202.95	\$16,014.75		\$0.00	
802.01012	Replace Existing Sports Lights With LED Light Fixtures On Existing Sports Lighting	4	EA	\$9,800.00	\$39,200.00	\$12,734.81	\$50,939.24		\$0.00	
1000.00102	Pavement Marking	1	LS	\$2,800.00	\$2,800.00	\$2,183.57	\$2,183.57		\$0.00	
1000.00103	Traffic Signs (Stop, Yield, One Way, Handicap Parking, and Crosswalk)	22	EA	\$345.00	\$7,590.00	\$339.55	\$7,470.10		\$0.00	
TOTAL CONSTRUCTION COST*						\$3,329,123.84		\$3,004,427.07		\$0.00
ALTERNATE #1 – Pathway Light Poles										
802.01006	Remove Existing Pole and Foundation and Replace with New Single LED Pathway Light On A (18' AG) Concrete Pole With Direct Embedded	28	EA	\$5,000.00	\$140,000.00	\$7,897.79	\$221,138.12		\$0.00	
802.01013	New Single LED Area on A (18' AG) Concrete Pole With Direct Embedded Foundation	2	EA	\$4,000.00	\$8,000.00	\$5,249.76	\$10,499.52		\$0.00	



CITY OF AVONDALE
 BID TABULATION SHEET
 IFB PR16-024 Friendship Park Improvements Project
 BID DATE: March 23, 2016

				SDB		DNG		CS LEGACY CONSTRUCTION	
Item	Description of Material and/or Services	Qty	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
ALTERNATE #1 TOTAL CONSTRUCTION COST*					\$148,000.00		\$231,637.64		\$0.00
ALTERNATE #2 - McDowell Road Monument Sign									
450.01017	McDowell Road Monument Sign	1	LS	\$22,400.00	\$22,400.00	\$21,605.85	\$21,605.85		\$0.00
802.01014	New 2' LED Strip Light	8	EA	\$1,620.00	\$12,960.00	\$2,140.76	\$17,126.08		\$0.00
ALTERNATE #2 TOTAL CONSTRUCTION COST*					\$35,360.00		\$38,731.93		\$0.00
ALTERNATE #3 – Increase Tree Caliper Size									
430.05039	Upsize to 36" Box Tree	31	EA	\$254.00	\$7,874.00	\$331.43	\$10,274.33		\$0.00
430.05040	Upsize to 48" Box Tree	22	EA	\$902.00	\$19,844.00	\$1,244.84	\$27,386.48		\$0.00
ALTERNATE #3 TOTAL CONSTRUCTION COST*					\$27,718.00		\$37,660.81		\$0.00
ALTERNATE #4 – Allowance Trees									
430.05037	Tree (24" Box)	150	EA	\$282.00	\$42,300.00	\$224.10	\$33,615.00		\$0.00
ALTERNATE #4 TOTAL CONSTRUCTION COST*					\$42,300.00		\$33,615.00		\$0.00
TOTAL BASE CONSTRUCTION COSTS PLUS ALTERNATES 1 - 4*					\$3,406,783.84		\$3,076,774.00		
Met Requirements and Required Attachments Included?					Yes		Yes		No

*All bids are presumed to include all applicable taxes.

CONSTRUCTION CONTRACT AWARD – DNG CONSTRUCTION LLC

DUE TO ITS SIZE, THIS DOCUMENT
HAS BEEN POSTED SEPARATELY

PLEASE CLICK ON THE LINK BELOW TO VIEW

<http://www.avondale.org/DocumentCenter/View/38324>



CITY COUNCIL AGENDA

SUBJECT:

Hoover Dam Power Purchase

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Tracy Stevens, Development and Engineering Services Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff will update the Mayor and City Council on the opportunity to purchase Hoover Dam power through the Arizona Power Authority (APA) at a reduced rate compared to what the City currently pays for power from the electric utilities.

BACKGROUND:

In April 2015 staff was made aware, pursuant to Arizona Administrative Code, the Arizona Power Authority (APA) was opening up an application process to allocate a share of Hoover Dam long term "Schedule D" power. The allocation opportunity was created by the Hoover Power Allocation Act of 2011(the Act). The Act authorized the Western Area Power Administration to offer new 50 year contracts (2017-2067) to existing federal contractors at 95% of their current allocations. The remaining 5% of Hoover power resources were set aside for "new allottees" that had not previously received Hoover Power. This new opportunity allowed more Arizona entities to obtain low-cost, renewable power from Hoover Dam. Currently, Arizona benefits significantly from power resources generated at Hoover Dam. Only twice in the past 75 years have new allocations of Hoover power been authorized by Congress. In this current round of allocations Congress allowed municipalities to apply for the opportunity to become "new allottees" and obtain a portion of the 5% which was set aside.

Staff submitted the APA application which required compiling data on historical energy use from our two utilities. In August, 2015, staff was notified that Avondale received an allocation of 547 kW or 1,193,468 kWh per year. Many other cities such as Phoenix, Scottsdale, Tempe, Chandler, and Peoria had applied and also received an allocation (see attachment A for allocations by city and estimated savings). This allocation means that Avondale has the right to purchase up to that aforementioned kW and kWh directly from the APA at a cost close to that of the federal sales rate. To illustrate this point, SRP and APS purchase power directly from the federal government (Hoover Dam) as well and transport the power through their transmission lines to their service areas in order to resell the power at a higher cost. So in effect, we would be cutting out the middle man up to the size of our allotment.

However this poses a challenge since none of the municipalities operate their own transmission lines from Hoover Dam to our facilities. To address this issue both APS and SRP agreed to a bill crediting arrangement. Therefore, the host utility would take delivery of the municipality's power on their behalf and transport it to the Valley. They would in effect be taking the City's allocation as if it was their own and then transferring the savings directly to whichever utility bill their customer assigned the Hoover power ie: the water reclamation facility's SRP meters.

DISCUSSION:

This is a unique opportunity to reduce the cost of power for the City of Avondale. However due to the federal rules the contract term is 50 years. Our attorney's office is looking into the possibility of procuring the specialized services of an attorney that is familiar with this allocation process. In addition staff is intends to procure the services of a technical engineering expert to assist in putting together a financial analysis.

BUDGET IMPACT:

Staff has received a preliminary analysis of potential savings from the technical expert familiar in these matters (Attachment A). There will be a repayable advance due at the end of 2017 which is for the APA to recoup the 'cost of doing business' which estimated to be approximately \$40,000. However savings are estimated to be approximately \$36,663 per year thereby substantially recouping our initial investment in year one of the agreement. The yearly savings are based on the price of power at Hoover which fluctuates. Additional start up fees would be incurred through procuring professional legal and engineering services. Staff estimates a cost of approximately \$10,000 to procure the technical engineering consultant to conduct a financial analysis. Staff is still waiting for a cost estimate for specialized legal services.

RECOMMENDATION:

This information is presented for discussion and Council direction.

ATTACHMENTS:**Description**

[Estimated APA Costs and Savings](#)

Estimated Repayable Advances

	Hoover D1 Capacity	Hoover D1 Energy	Hoover D2 Capacity	Hoover D2 Energy	Total Capacity Entitlements	Total Energy Entitlements	Estimated Repayable Advances
	(kW)	(kWh)	(kW)	(kWh)	(kW)	(kWh)	
City of Avondale			547	1,193,468	547	1,193,468	\$ 37,832.61
City of Chandler, Municipal Utilities Department	676	1,475,854	-	-	676	1,475,854	\$ 46,769.59
Town of Gilbert			1,000	2,181,842	1,000	2,181,842	\$ 69,163.82
City of Glendale	426	930,050	-	-	426	930,050	\$ 29,473.14
City of Peoria	691	1,508,602	-	-	691	1,508,602	\$ 47,807.37
City of Phoenix	3,000	6,549,646	-	-	3,000	6,549,646	\$ 207,557.32
City of Scottsdale, Water Resources Division	2,366	5,165,487	-	-	2,366	5,165,487	\$ 163,693.53
City of Tempe, Water Utility Division	241	526,155	-	-	241	526,155	\$ 16,673.77

Estimated APA First Year Power Costs (1)

	Total Capacity Entitlements	Total Energy Entitlements	Average Capacity Available	Energy Available	Estimated Demand Charges	Estimated Energy Charges	Total Estimated Costs	Estimated Annual Bill Credit Savings
	(kW)	(kWh)	(kW)	(kWh)				(APS E-35 Ex
			79%	77%	\$ 1.58	\$ 0.012888		\$ 0.040000
City of Avondale	547	1,193,468	432	916,590	\$ 8,177.31	\$ 11,813.40	\$ 19,990.71	\$ 36,663.60
City of Chandler, Municipal Utilities Department	676	1,475,854	534	1,133,464	\$ 10,108.06	\$ 14,608.56	\$ 24,716.62	\$ 45,338.56
Town of Gilbert	1,000	2,181,842	790	1,675,666	\$ 14,953.87	\$ 21,596.69	\$ 36,550.56	\$ 67,026.64
City of Glendale	426	930,050	337	714,283	\$ 6,379.06	\$ 9,205.98	\$ 15,585.04	\$ 28,571.32
City of Peoria	691	1,508,602	546	1,158,614	\$ 10,335.21	\$ 14,932.70	\$ 25,267.91	\$ 46,344.56
City of Phoenix	3,000	6,549,646	2,370	5,030,162	\$ 44,861.61	\$ 64,830.83	\$ 109,692.44	\$ 201,206.48
City of Scottsdale, Water Resources Division	2,366	5,165,487	1,869	3,967,121	\$ 35,378.20	\$ 51,129.92	\$ 86,508.12	\$ 158,684.84
City of Tempe, Water Utility Division	241	526,155	190	404,090	\$ 3,596.50	\$ 5,208.08	\$ 8,804.58	\$ 16,163.60

1) Estimated rates w/o APA Transmission costs based upon current APA OY16 Approved Budget.



CITY COUNCIL AGENDA

SUBJECT:

Public Hearing - Home Rule Alternative
Expenditure Limitation

MEETING DATE:

4/4/2016

TO: Mayor and Council

FROM: Abbe Yacoben, Finance and Budget Director

THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff requests the City Council hold the second of two required public hearings on the alternative expenditure limitation (home rule option) in order to take public comment on the issue.

BACKGROUND:

The Arizona State Constitution and Arizona Revised Statutes impose an expenditure limitation on every City and Town in the State. The State-imposed limitation uses expenditures of local revenues from Fiscal Year 1979-80 as a baseline. Each year, the Economic Estimates Commission (EEC) adjusts baseline expenditures based on a standard inflation rate and the population growth in the community to establish a new expenditure limitation (Avondale's State-imposed expenditure limitation for FY 2016 is \$49.7 million).

Certain revenues are specifically excluded from the State-imposed expenditure limitation. For example, revenues received from the issuance of bonds, revenues received from interest or dividends, revenue from Federal grants, and intergovernmental revenue already subject to another entity's expenditure limitation, are all exempt from the expenditure limit.

If the State-imposed limitation does not allow for the expenditure of sufficient local funds (less the exemptions listed above), State law provides four options to potentially solve this problem.

- Alternative expenditure limitation (local home rule option)
- A permanent base adjustment
- A capital projects accumulation fund
- A one-time override

All of the options require voter approval. If none of the options are approved by the voters, the State-imposed limitation will apply.

Home rule option

The home rule option allows the City to adopt its own "alternative" expenditure limitation and sets the limit at its adopted budget. In other words, it allows the City to establish its own expenditure limitation without being subject to the State-imposed limitation. It also significantly reduces the City's reporting burden to the State. Home rule must be approved by the voters, and is good for a period of four years. Renewal of home rule must be re-approved by the voters every four years.

Permanent Base adjustment option

A permanent base adjustment modifies the expenditure limitation base from 1979-80. The permanent adjustment allows the City to increase the base expenditures from 1979-80 and calculates the impact of the population and inflation factor on that new base. This results in an increase of the current and future year's expenditure limitations. As the name indicates, the adjustment is permanent and requires the approval of the voters one time.

Capital projects accumulation fund option

A capital project accumulation fund allows the City to exclude funds accumulated to pay for specific capital projects. This option is useful for Cities where the State-imposed limitation is adequate for operating costs, but not for capital outlay costs. A capital projects accumulation fund and the specific projects must be approved by the voters. If new projects are identified by the City, this would require voter approval for the new projects.

One-time override option

Any City may exceed its State-imposed limitation by a one-time override. This override is effective for one year, and does not affect the expenditure limitation base. The override must be approved by the voters and is good for one year.

DISCUSSION:

In 2012, the Avondale voters adopted an alternative expenditure limitation – Home Rule option (first approved in 1981 with eight subsequent extensions). The Home Rule option expires at the end of Fiscal Year 2016-2017.

The FY 2015-2016 adopted City budget is \$176,731,990, and while staff estimates \$45 million in exemptions, this leaves a City budget of \$131,731,990. The Current State-imposed limitation is \$49,716,471. The City would have to cut more than \$80 million from its budget. This would cause a very significant change in service levels. There are several factors that would cause the City of Avondale to exceed the State-imposed expenditure limit.

First, the State-imposed expenditure limitation, which is calculated with population and inflation factors, is based on projections for one year's needs. In a high growth community, this doesn't allow for a City to plan infrastructure and city services to stay ahead of the growth curve (i.e., building a wastewater treatment facility with excess capacity, instead of one year's capacity needs).

Second, the City of Avondale has changed significantly since 1979-80, when the baseline was established. Current citizens are demanding increased services and amenities that may not have been required in 1980. The increased expectations of the residents are not adequately factored into the population and inflation calculation performed by the State. As a result, the State-imposed limitation is based on expectations from 35 years ago, instead of today's residents.

Finally, the State imposed limitation does not account for additional revenue sources received since 1979-80. The City of Avondale has established development impact fees and two, half-percent sales tax increases since 1979-80. Both of these local revenue sources are subject to the State-imposed limitation. Without an alternate expenditure limitation, the City would be unable to spend sales tax dollars from a voter approved initiative, which was approved to increase funding for public safety.

As the State-imposed expenditure limitation for the City of Avondale is not sufficient to allow the City to expend its local revenues and provide the basic services that the residents require, the proposed extension of the Alternative Expenditure Limitation should be placed on the ballot for voter approval.

RECOMMENDATION:

Staff recommends that Council hold the second public hearing for the proposed extension of the Alternative Expenditure Limitation (home rule option).



CITY COUNCIL AGENDA

CITY COUNCIL CHAMBERS . 11465 WEST CIVIC CENTER DRIVE . AVONDALE, AZ 85323

SPECIAL MEETING

April 4, 2016

7:00 PM

IMMEDIATELY FOLLOWING THE REGULAR MEETING

CALL TO ORDER BY MAYOR

1 ROLL CALL BY THE CITY CLERK

2 RESOLUTION 3303-416 - PROPOSING AN EXTENSION OF THE ALTERNATIVE EXPENDITURE LIMITATION

City Council will consider a resolution authorizing the placement of an extension of the alternative expenditure limitation on the August 30th, 2016 ballot. The Council will take the appropriate action.

3 ADJOURNMENT

Respectfully submitted,

Carmen Martinez
City Clerk

Council Members of the City of Avondale will attend either in person or by telephone conference call.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica.

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.

Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oido, o con necesidad de impresion grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos dias habiles antes de la junta del Concejo.

Notice is hereby given that pursuant to A.R.S. 1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council may be audio and/or video recorded and, as a result, proceedings in which children are present may be subject to such recording. Parents, in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. 1-602.A.9 have been waived.

De acuerdo con la ley A.R.S. 1-602.A.9, y sujeto a ciertas excepciones legales, se da aviso que los padres tienen derecho a dar su consentimiento antes de que el Estado o cualquier otra entidad politica haga grabaciones de video o audio de un menor de edad. Las juntas del Concejo de la Ciudad pueden ser grabadas y por consecuencia, existe la posibilidad de que si hay menores de edad presentes estos aparezcan en estos videos o grabaciones de audio. Los padres puedan ejercitar su derecho si presentan su consentimiento por escrito a la Secretaria de la Ciudad, o pueden asegurarse que los ninos no sten presentes durante la grabacion de la junta. Si hay algun menor de edad presente durante la grabacion, la Ciudad dara por entendido que los padres han renunciado sus derechos de acuerdo a la ley contenida A.R.S. 1-602.A.9.



CITY COUNCIL AGENDA

SUBJECT:

Resolution 3303-416 - Proposing an Extension of
the Alternative Expenditure Limitation

MEETING DATE:

4/4/2016

TO: Mayor and Council
FROM: Abbe Yacoben, Finance and Budget Director
THROUGH: David Fitzhugh, City Manager

PURPOSE:

Staff request the City Council adopt a resolution authorizing the placement of the home rule alternative expenditure limitation on the August 30, 2016 ballot authorizing the Mayor, City Manager, City Clerk, and City Attorney to take necessary steps to place this item on the ballot.

BACKGROUND:

As discussed earlier at the work session on March 14, the public hearings on March 21 and this evening, the City Council has opted to place the extension of the alternative expenditure limitation option on the August 30, 2016 ballot.

It is required by State law that the Council adopt a resolution authorizing the Mayor, City Manager, City Clerk, and City Attorney to take necessary steps to place this item on the ballot.

The required public hearings have been held, and the adoption of a resolution is the next step to place the extension of the alternative expenditure limitation on the ballot.

DISCUSSION:

In 2012, the Avondale voters adopted an alternative expenditure limitation – Home Rule option (first approved in 1981 with eight subsequent extensions). The Home Rule option expires at the end of Fiscal Year 2016-2017.

The FY 2015-2016 adopted City budget is \$176,731,990, and while staff estimates \$45 million in exemptions, this leaves a City budget of \$131,731,990. The Current State-imposed limitation is \$49,716,471. The City would have to cut more than \$80 million from its budget. This would cause a very significant change in service levels. There are several factors that would cause the City of Avondale to exceed the State-imposed expenditure limit.

First, the State-imposed expenditure limitation, which is calculated with population and inflation factors, is based on projections for one year's needs. In a high growth community, this doesn't allow for a City to plan infrastructure and city services to stay ahead of the growth curve (i.e., building a wastewater treatment facility with excess capacity, instead of one year's capacity needs).

Second, the City of Avondale has changed significantly since 1979-80, when the baseline was established. Current citizens are demanding increased services and amenities that may not have

been required in 1980. The increased expectations of the residents are not adequately factored into the population and inflation calculation performed by the State. As a result, the State-imposed limitation is based on expectations from 35 years ago, instead of today's residents

Finally, the State imposed limitation does not account for additional revenue sources received since 1979-80. The City of Avondale has established development impact fees and two, half-percent sales tax increases since 1979-80. Both of these local revenue sources are subject to the State-imposed limitation. Without an alternate expenditure limitation, the City would be unable to spend sales tax dollars from a voter approved initiative, which was approved to increase funding for public safety.

As the State-imposed expenditure limitation for the City of Avondale is not sufficient to allow the City to expend its local revenues and provide the basic services that the residents require, the proposed extension of the Alternative Expenditure Limitation should be placed on the ballot for voter approval.

RECOMMENDATION:

Staff recommends that Council adopt a resolution placing the extension of the alternative expenditure limitation on the August 30, 2016 ballot authorizing the Mayor, City Manager, City Clerk, and City Attorney to take necessary steps to place this item on the ballot.

ATTACHMENTS:

Description

[Resolution 3303-416](#)

RESOLUTION NO. 3303-416

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, PROPOSING AN EXTENSION OF THE ALTERNATIVE EXPENDITURE LIMITATION.

WHEREAS, Article IX, Section 20, Subsection 9 of the Arizona State Constitution permits the Council of the City of Avondale (the “City Council”) to submit to the voters an alternative expenditure limitation; and

WHEREAS, in 1981 the voters of Avondale first adopted the alternative expenditure limitation commonly referred to as “Home Rule”; and

WHEREAS, the Avondale voters approved extension of Home Rule in 1985, 1989, 1993, 1997, 2000, 2005, 2009, and 2012; and

WHEREAS, the City Council, after two public hearings held on March 21, 2016 and April 4, 2016, has determined that a further extension of the Home Rule alternative expenditure limitation is necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Home Rule alternative expenditure limitation extension shall be submitted to the voters of the City as follows:

Shall the following be adopted by the City of Avondale as an alternative expenditure limitation:

“The Mayor and Council of the City of Avondale shall annually, as part of the annual budget adoption process, adopt an alternative expenditure limitation equal to the total amount of budgeted expenditures/expenses as it appears on the annual budget as adopted by the City Council to apply to the City of Avondale for each of the four fiscal years immediately following such adoption. The alternative expenditure limitation shall be adopted each year after a public hearing at which the citizens of the City of Avondale may comment on the proposed alternative expenditure limitation. No expenditures may be made in violation of such alternative expenditure limitation, nor may any proposed expenditures be in

excess of estimated available revenues, except that the Mayor and the Council may by three-fourths vote, declare an emergency and suspend the alternative expenditure limitation. The suspension of the alternative expenditure limitation shall be in effect for only one fiscal year at a time.”

SECTION 3. An election on the further extension of Home Rule is hereby set for August 30, 2016.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, April 4, 2016.

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

Andrew J. McGuire, City Attorney