



**Citizen Bond Exploratory
Committee
City of Chandler, Arizona
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Legal Briefing

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Introduction

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Scope of Presentation

- Background on Arizona Election Laws and Process
- Voter Information Pamphlets
- Overview of General Obligation Bond Questions
- Influencing the Outcome of an election
- Question and Answer



Why Do We Need An Election?

- Bond elections authorize the City to borrow money for approved capital projects and are the foundation that bond counsel relies upon to issue an unqualified opinion that the bonds have been duly and validly issued



G.O. Bond Elections

- Secured by ad valorem taxes
- Order of the election by the political subdivision governing body (i.e. City Council) or petition signed by 15% of the qualified electors
 - Transaction costs may come from authorized amount, but bond election expenses to be paid from current operating funds only
- Notice of election per A.R.S. 9-812 and 39-204 (not publication)
- Election held at the regular voting places on the first Tuesday following the first Monday in November
- Voter Information Pamphlet is required
- Ballot form must include certain language – for example, “the issuance of these bonds will result in a property tax increase...”
- Authorization does not expire



Voter Informational Pamphlet



- Legal Statues of the Voter Informational Pamphlet (“VIP”).
 - A.R.S. Section 35-454 requires that the purposes be listed in the VIP and limits the use of bond proceeds to the purposes stated. The purposes set out in the VIP may be different than the language in the ballot.



Voter Informational Pamphlet *(cont'd)*



- Requirements.
- A.R.S. Section 35-454. Not less than 35 days before the election, mail to every household with a registered voter.
 - *Sherman v. Tempe* – before the election means before early voting begins.



Voter Informational Pamphlet *(cont'd)*

- Substantive Content Requirements
 - Amount of Bonds
 - Maximum Interest Rate
 - Estimated Debt Service Schedule for Current Outstanding Bonds
 - Estimated Debt Service Schedule for Proposed Bonds
 - Limits on assessed value growth assumptions
 - Source of repayment
 - Estimated issuance costs
 - Estimated tax impact on certain types of properties
 - Residential (\$250,000)
 - Commercial (\$1,000,000)
 - Agricultural/Vacant (\$100,000)
 - Estimated total cost (including P&I) – **bold** font
 - Current outstanding GO debt and Constitutional limitation



Voter Informational Pamphlet *(cont'd)*

- Substantive Content Requirements (cont'd)
 - Projects and expenditures for which the bonds are to be issued
 - Polling location for the addressee
 - Hours during which polls will be open
 - Pro/con arguments



Voter Informational Pamphlet *(cont'd)*

- Regarding the Pro/Con Arguments:
 - Governing body must set deadlines to submit at a public meeting
 - Publish deadline (doesn't say how to publish, so use the standard found in A.R.S. 39-204)
 - Governing Body's argument should be approved by the governing body (AG Opinion I08-005)
 - Political subdivision may charge a fee for arguments if it has some statutory authority to do so (initiative statutes)
- Overly gratuitous additions in the VIP, such as "Purpose" or "Why this Election was called" must be carefully reviewed



Voter Informational Pamphlet *(cont'd)*



- Within 30 days after election, submit copy of the VIP to the Department of Revenue
- All written voter information must state the tax rate necessary to support the bonds (A.R.S. 35-454.C.)
- VIP typically has more detail than the Ballot and it is in the VIP where you can “explain” things and go into more detail
- Bond Committee members can draft statements in favor of the referendum
- Examples of Voter Information Pamphlets follow this slide



Example of Detail allowed in VIP



CITY OF TEMPE, ARIZONA SPECIAL BOND ELECTION

A STATEMENT FROM THE CITY AS TO WHY THE SPECIAL BOND ELECTION HAS BEEN CALLED

A bond election is the means by which the residents of the City of Tempe provide authorization for the City to issue bonds to fund large capital projects that are part of a well-defined Capital Improvement Program (detailed descriptions of all projects in the five-year Capital Improvement Program are provided on the City's Website at <https://www.tempe.gov/home/showdocument?id=83121>).

Bonded debt is the primary mechanism established by state statute that enables municipalities to build, maintain and replace public assets and infrastructure. The City of Tempe issues tax-exempt bonds as part of a comprehensive capital program to fund these projects. Historically, Tempe's interest rate on its bonds has been low due to the City's well-managed debt program and superior bond ratings. The City maintains a AAA rating on its general obligation bonds, the highest possible rating.

The City of Tempe has estimated the costs of projects necessary to maintain the public's assets over the next five years and now asks City residents to authorize the issuance of bonds to support those projects. The total bonding authorization of \$349,000,000 being requested by the City is similar to the amount approved by voters in the past, including in 2016, when voters approved \$254,000,000 in bonding authorization. Tempe residents have the opportunity to vote on five separate initiatives that provide authorization to issue bonds in the following categories and amounts:

- 1) Water and Sewer Improvements -- \$134,000,000
 - This bonding authorization will fund projects to maintain and improve treatment processes and capacity at water and wastewater treatment plants, water distribution and storage infrastructure, system security, billing systems, plant facilities and sewer collection infrastructure and reclamation facilities.
- 2) Street Improvements/Storm Drains -- \$74,000,000
 - This bonding authorization will fund projects to acquire, construct, reconstruct or improve highways, streets, avenues, bike paths, bridges, City facility parking lots, alleys, traffic control systems, devices, facilities, street lighting, street signage and undergrounding utility lines; acquire and maintain land and rights-of-way for transportation purposes; and improve the storm drain system.
- 3) Public Safety -- \$34,000,000
 - This bonding authorization will allow the City to acquire and improve Public Safety/City Radio System capabilities. Hardware and software replacements for the Police and Fire Departments are also planned during the five-year capital program. Scheduled replacement of public safety vehicles and equipment and improvements to and acquisition of public safety facilities are also planned.
- 4) Park Improvements/Community Services -- \$45,000,000
 - This bonding authorization will allow the City to acquire, construct and improve park and recreation infrastructure, equipment and facilities, including lighting, lakes, landscaping, and aquatics.
- 5) Municipal Infrastructure Preservation -- \$62,000,000
 - This bonding authorization will fund the acquisition, improvement, preventative maintenance, repair and rehabilitation of City buildings, infrastructure, landscape and



Excerpts from City of Tempe VIP



- **ARGUMENTS FOR THE BONDS**

Having estimated the costs to maintain public assets over the next five years, Tempe is asking residents to authorize the issuance of bonds to support those assets.



Voter Informational Pamphlet *(cont'd)*



Like all cities, Tempe uses bonds to fund capital improvement projects, such as roads, parks, and city buildings. Similar to buying a house and paying a mortgage, these projects have a long useful life, so costs need to be apportioned over many years and paid for by current and future residents.



Voter Informational Pamphlet *(cont'd)*



The approved bonds will provide funds to ensure we maintain city assets and improve infrastructure.



Voter Informational Pamphlet *(cont'd)*



A “YES” vote covers:

- Water and Sewer Systems: to maintain and improve water and wastewater treatment plants, water distribution/storage infrastructure, security, billing systems, sewer collection infrastructure, and reclamation facilities



Voter Informational Pamphlet *(cont'd)*



- Parks/Community Services: to acquire, construct, and improve park and recreation infrastructure, equipment, and facilities, including lighting, lakes, landscaping, and aquatics



Voter Informational Pamphlet *(cont'd)*



Your taxes will NOT go up to pay the proposed bonds, as current property taxes are sufficient to repay the bonds. As long-time residents, we take great pride in our community. Let's continue to protect and improve Tempe's quality of life.



Voter Informational Pamphlet *(cont'd)*



Join us in voting YES!

Tempe Vice Mayor Randy
Keating and Tempe

Councilmembers Jennifer

Adams, Robin Arredondo-

Savage, Doreen Garlid, Lauren

Kuby, and Joel Navarro.



Preparing the Ballot Question



Scope of Questions - the law prohibits “log rolling.” Typically, there is no log rolling if there is a common nexus among the items presented and the law has not divided the issues in other contexts



Preparing the Ballot Question *(cont'd)*

- Purposes vs. Projects.
 - Must be broad enough in scope to cover all expenditures expected to be made.
 - Need enough specificity so the voter can't claim "fraud in the inducement."
 - Examples, construct vs. improve; expand vs. renovate; equipment; financial costs; lease and acquire.
- Dollar sizing.
 - Construction estimate.
 - Inflation.
 - Incidentals.
- Amount authorized may exceed the current debt capacity.
- Ballot form must include certain language – for example, "the issuance of these bonds will result in a property tax increase..."



Municipal Facilities Bonds

QUESTION 1

PURPOSE: MUNICIPAL FACILITIES BONDS

AMOUNT: \$33,570,000

Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:

Purposes: To construct, improve, renovate, replace and remodel municipal buildings and critical infrastructure related thereto; to furnish and equip such facilities and improve the grounds thereof.

Payment of Bonds: Each series of these bonds will be issued at the option of the Mayor and Council as general obligation bonds of the City pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, payable from the levy of an ad valorem tax against the taxable property located within the City and the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service of the bonds, unless the Mayor and Council provide for payment from other sources.



Park and Recreation Improvements/Community Services Bonds

QUESTION 2

PURPOSE: PARK AND RECREATION IMPROVEMENTS/COMMUNITY SERVICES BONDS

AMOUNT: \$72,985,000

Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:

Purposes: To construct, improve and acquire community, neighborhood, regional and aquatic parks, including recreational facilities, buildings and improvements; to acquire land for parks, recreational facilities, buildings and open spaces; to make improvements, additions and replacements to existing parks and recreational facilities and buildings; to landscape, furnish and equip existing and new parks and recreational facilities and buildings.

Payment of Bonds: Each series of these bonds will be issued at the option of the Mayor and Council as general obligation bonds of the City pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, payable from the levy of an ad valorem tax against the taxable property located within the City, and the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service of the bonds, unless the Mayor and Council provide for payment from other sources.



Public Safety/Fire Bonds

QUESTION 3

PURPOSE: PUBLIC SAFETY/FIRE BONDS

AMOUNT: \$25,160,000

Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:

Purposes: To construct, improve, renovate and remodel fire stations and other fire safety related facilities; to furnish, equip and improve fire stations, fire safety related facilities and radio infrastructure; and to acquire vehicles and land for fire and public safety purposes.

Payment of Bonds: Each series of these bonds will be issued at the option of the Mayor and Council as general obligation bonds of the City pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, payable from the levy of an ad valorem tax against the taxable property located within the City, and the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service of the bonds, unless the Mayor and Council provide for payment from other sources.



Public Safety/Police Bonds

QUESTION 4

PURPOSE: PUBLIC SAFETY/POLICE BONDS

AMOUNT: \$55,190,000

Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:

Purposes: To construct, improve, renovate and remodel police stations and other police related facilities; to furnish, equip and improve police stations, police related facilities and radio infrastructure; and to acquire vehicles and land for police and public safety purposes.

Payment of Bonds: Each series of these bonds will be issued at the option of the Mayor and Council as general obligation bonds of the City pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, payable from the levy of an ad valorem tax against the taxable property located within the City, and the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service of the bonds, unless the Mayor and Council provide for payment from other sources.



Public Works and Street Improvement Bonds

QUESTION 5

PURPOSE: PUBLIC WORKS AND STREET AND TRANSIT IMPROVEMENTS BONDS

AMOUNT: \$85,780,000

Shall the Mayor and Council of the City of Chandler, Arizona, be authorized to issue and sell the following bonds of the City:

Purposes: To design, acquire, improve, construct, reconstruct and rehabilitate the streets, avenues, alleys and highways of or within the City; to design, acquire, install, construct and reconstruct street lighting, traffic signal/control systems, underground utility lines, landscape improvements and transit/bicycle program improvements, including shared use paths and trails; to acquire land and interests in land for transportation purposes.

Payment of Bonds: Each series of these bonds will be issued at the option of the Mayor and Council as general obligation bonds of the City pursuant to Title 35, Chapter 3, Article 3, Arizona Revised Statutes, payable from the levy of an ad valorem tax against the taxable property located within the City, and the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service of the bonds, unless the Mayor and Council provide for payment from other sources.



Government Resources Influencing the Outcome of an Election



- Objective test, not based on the subjective state of mind of the actor
 - The prohibition applies before a measure qualifies for the ballot
 - The legal test is do the activities unambiguously urge a person to vote in a particular manner
 - City resources cannot be used for advocacy
 - Staff can volunteer time but cannot be compelled to work on campaign or work on campaign on the clock



Government Resources Influencing the Outcome of an Election *(cont'd)*

- Impartial, content neutral information has been allowed, but the courts will look to the style, tenor and timing of the activity
- Normal non-partisan “get out to vote or register” activities are permitted
 - 2000 and 2004 Attorney General Opinion allows the answering of frequently asked questions and an analysis of the financial impact of the ballot measure
 - Can’t have pictures of town’s police cars, etc. - in ‘vote yes’ campaign material



Government Resources Influencing the Outcome of an Election *(cont'd)*



- State and federal prosecution possible if government funds are used. Federal case - wire fraud theft is a result of using program funds from a program receiving federal funds



Question and Answer



Thank You.