



City of Wilmington  
1165 South Water Street  
Wilmington, IL 60481

**Agenda**  
**Regular City Council Meeting**  
**Wilmington City Hall**  
**Council Chambers**  
**March 7, 2023**  
**7:00 p.m.**  
**In Person & Via Zoom**  
**join by video at:**

<https://us02web.zoom.us/j/89913733292?pwd=c0pCQTN0SW94NkcxcckJkWFRRSSzBFUT09>

**join by phone at:**

**1-312-626-6799**

**Meeting ID: 899 1373 3292 / Passcode: 878351**

*IN ACCORDANCE WITH PUBLIC ACT 101-0640, 5 ILCS 120/7(e), THIS CITY COUNCIL MEETING WILL BE HELD IN-PERSON AND REMOTELY BASED ON THE GUBERNATORIAL DISASTER DECLARATION AND THE MAYOR OF THE CITY OF WILMINGTON DETERMINING THAT A FULL IN-PERSON MEETING IS NOT PRACTICAL OR PRUDENT. MEMBERS OF THE GENERAL PUBLIC WILL BE ABLE TO VIEW AND PARTICIPATE IN THE MEETINGS REMOTELY AS WELL.*

**1. Call to Order by Mayor Dietz**

**2. Pledge of Allegiance**

**3. Roll Call by City Clerk**

Kevin Kirwin  
Dennis Vice  
Leslie Allred  
Todd Holmes

Ryan Jeffries  
Ryan Knight  
Jonathan Mietzner  
Thomas Smith

**4. Approval of the Previous City Council Meeting Minutes**

**5. Mayor's Report**

- a. Proclamation – 175<sup>th</sup> Anniversary of the I&M Canal

**6. Public Comment** *(State your full name clearly; limit 3 minutes each per Ordinance 19-06-18-01)*

**7. Planning & Zoning Commission**

- a. Consideration to Approve An Ordinance Approving a Conditional Use for Property Located at 110 Bridge Street, Wilmington, IL60481 (Nelly's Drive-Thru Window; PIN No. 03-17-25-304-007-0000)

*Posting Date:*  
3/3/2023 2:52 PM jz

- b. Consideration to Approve and Authorize the Execution of a Grant of Easement Between the City of Wilmington and Nelson’s Furniture, Inc.
- c. Consideration to Approve An Ordinance Approving a Map Amendment from R1 and R3 to B3 - General Commercial and a Conditional Use For Vacant Property Located on School Street, Wilmington, IL 60481 (PIN Nos. 03-17-26-403-009-0000 And 03-17-26-403-011-0000)

The next meeting is scheduled for March 8, 2023, at 5:00 pm

## **8. Committee of the Whole**

### **A. Police & ESDA**

*Co-Chairs – Jonathan Mietzner and Leslie Allred*

### **B. Ordinance & License**

*Co-Chairs – Kevin Kirwin and Ryan Knight*

### **C. Buildings, Grounds, Parks, Health & Safety**

*Co-Chairs – Ryan Jeffries and Thomas Smith*

### **D. Water, Sewer, Streets & Alleys**

*Co-Chairs – Todd Holmes and Dennis Vice*

### **E. Personnel & Collective Bargaining**

*Co-Chairs – Jonathan Mietzner and Todd Holmes*

### **F. Finance, Administration & Land Acquisition Committee**

*Co-Chairs – Kevin Kirwin and Ryan Jeffries*

1. Approve the Accounting Reports
2. Approve Resolution No. 2023-06, A Resolution of the City of Wilmington in Support of Tax Increment Financing
3. Approve Resolution No. 2023-07, A Resolution Authorizing Participation in the MissionSquare Retirement Governmental Money Purchase Plan

## **9. Attorney & Staff Reports**

## **10. Executive Session**

- Appointment, Employment, Dismissal, Compensation, Discipline and Performance of an Employee of the City of Wilmington [ILCS 120/2(c)(1)]
- Collective negotiating matters between the City of Wilmington (public body) and its employees [ILCS 120/2(c)(2)]
- Matters of Land Acquisition [ILCS 2(c)(5) and 2(c)(6)]
- Probable or Imminent Litigation and Pending Litigation [ILCS 2(c)(11)]

## **11. Possible Action Following Executive Session**

## **12. Adjournment**

*Posting Date:  
3/3/2023 2:52 PM jz*

**Minutes of the Regular Meeting of the  
Wilmington City Council  
Wilmington City Hall  
1165 South Water Street  
February 21, 2023**

**Call to Order**

The Regular Meeting of the Wilmington City Council on February 21, 2023, was called to order at 7:00 p.m. by Mayor Ben Dietz in the Council Chamber of the Wilmington City Hall.

**Roll Call**

Upon Roll Call by the Clerk the following members of the corporate authorities answered "Here" or "Present":

**Aldermen Present** Kirwin, Knight, Jeffries, Vice, Mietzner, Smith, Holmes

**Aldermen Absent** Allred

**Quorum**

There being a sufficient number of members of the corporate authorities in attendance to constitute a quorum, the meeting was declared in order

**Other Officials in Attendance**

Also, in attendance were City Administrator Jeannine Smith, Finance Director Nancy Gross, Chief of Police Adam Zink, Public Works Director James Gretencord, City Attorney Bryan Wellner, and Deputy City Clerk Joie Ziller

**Approval of the Previous Regular City Council Meeting**

Alderman Smith made a motion and Alderman Mietzner seconded to approve the February 7, 2023 meeting minutes with the necessary changes and have them placed on file

Upon roll call, the vote was:

**AYES:**        7 Smith, Mietzner, Vice, Jeffries, Kirwin, Knight, Holmes

**NAYS:**        0

**ABSENT:**    1 Allred

The motion carried.

**Mayor's Report**

Mayor Dietz administered the oath to Patrolman Thomas Allen.

**Public Comment**

No public comments were made.

**Planning & Zoning Commission**

Alderman Vice made a motion and Alderman Jeffries seconded to table the Ordinance Approving a Conditional Use for Property Located at 110 Bridge Street, Wilmington, IL60481 (Nelly's Drive-Thru Window; PIN No. 03-17-25-304-007-0000 until the March 7, 2023 City Council meeting

Discussion: Mr. Nelson informed the Council that after Jayson's inspection, the only thing remaining for compliance on the inside of the building is the fire alarm which ADT is installing hopefully tomorrow. Attorney Wellner stated that the remaining issue on the outside is the

agreement related to the parking lot easement. The drive-thru cannot be utilized until the agreement is in place and voted on by Council.

Upon roll call, the vote was:

**AYES:** 7 Vice, Jeffries, Smith, Mietzner, Kirwin, Knight, Holmes

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

Alderman Vice made a motion and Alderman Mietzner seconded to table the Ordinance Approving a Map Amendment from R1 and R3 to B3 - General Commercial and a Conditional Use for Vacant Property Located on School Street, Wilmington, IL 60481 (PIN Nos. 03-17-26-403-009-0000 And 03-17-26-403-011-0000) until the March 7, 2023 City Council meeting

Upon roll call, the vote was:

**AYES:** 7 Vice, Mietzner, Smith, Jeffries, Kirwin, Knight, Holmes

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

The next meeting is scheduled for March 2, 2023.

### **Committee of the Whole Reports**

#### **A. Police & ESDA**

*Co-Chairs – Jonathan Mietzner and Leslie Allred*

Alderman Mietzner made a motion and Alderman Knight seconded to approve the Quote from Global Industrial for Scales in the amount not to exceed \$13,569.91

Upon roll call, the vote was:

**AYES:** 7 Mietzner, Knight, Smith, Holmes, Vice, Kirwin, Jeffries

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

#### **B. Ordinance & License**

*Co-Chairs – Kevin Kirwin and Ryan Knight*

Alderman Knight made a motion and Alderman Jeffries seconded to approve Resolution No. 2023-04, A Resolution to Dispose of Surplus Property

Upon roll call, the vote was:

**AYES:** 7 Knight, Jeffries, Kirwin, Vice, Mietzner, Smith, Holmes

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

Alderman Knight made a motion and Alderman Jeffries seconded to approve Resolution No. 2023-05, A Resolution Authorizing the Participation in the Northern Illinois Municipal Electric Collaborative (NIMEC) and Authorizing the City Administrator to Approve a Contract with the Lowest-Cost Electricity Provider For A Period of Up To 36 Months

Upon roll call, the vote was:

**AYES:** 7 Knight, Vice, Mietzner, Kirwin, Smith, Holmes, Jeffries

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

Alderman Kirwin made a motion and Alderman Knight seconded to approve the Exemptions to 150.89 Section C Recreational Vehicles for the following residents:

- Russell & Linda Busby at 309 S. Outer Dr for the 2016 Coachmen Catalina
- Dave Carter at 1003 N. Joliet St for the 2015 Jayco White Hawk Ultra Lite 27 DSRL
- Kevin & Alicia Ptacek at 1202 N. Joliet St for the 1993 Airstream Legacy
- Brian Sanders at 893 Winchester Green Dr for the 2014 Heartland Trail Runner 27fqs

Upon roll call, the vote was:

**AYES:** 7 Kirwin, Knight, Vice, Mietzner, Smith, Holmes, Jeffries

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

Mayor Dietz distributed the exemption letters to Mr. Busby, Mr. Carter, and Mr. Ptacek. Mr. Sanders' letter will be mailed.

#### **C. Buildings, Grounds, Parks, Health & Safety**

*Co-Chairs – Ryan Jeffries and Thomas Smith*

Nothing at this time

#### **D. Water, Sewer, Streets & Alleys**

*Co-Chairs – Todd Holmes and Dennis Vice*

Alderman Holmes made a motion and Alderman Knight seconded to approve the Chamlin & Associates' Proposal for BNR Preliminary Engineering Study in the amount not to exceed \$18,500

Upon roll call, the vote was:

**AYES:** 7 Holmes, Knight, Kirwin, Vice, Mietzner, Smith, Jeffries

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

Alderman Holmes made a motion and Alderman Mietzner seconded to Waive the Competitive Bidding and Pay Clennon Electric Invoice #40937 for a total of \$31,504.19

Upon roll call, the vote was:

**AYES:** 7 Holmes, Mietzner, Knight, Kirwin, Vice, Smith, Jeffries

**NAYS:** 0

**ABSENT:** 1 Allred

The motion carried.

**E. Personnel & Collective Bargaining**  
*Co-Chairs – Jonathan Mietzner and Todd Holmes*

Nothing at this time

**F. Finance, Administration & Land Acquisition Committee**  
*Co-Chairs – Kevin Kirwin and Ryan Jeffries*

Alderman Jeffries made a motion and Alderman Kirwin seconded to Approve the Accounts Payable Reports in the amount of \$223,993.23

Upon roll call, the vote was:

**AYES:**     7 Jeffries, Kirwin, Knight, Vice, Smith, Holmes, Mietzner

**NAYS:**     0

**ABSENT:**  1 Allred

The motion carried

Alderman Jeffries made a motion and Alderman Smith seconded to Approve the Façade Improvement Grant Award to Community GMC in the amount of \$5,000

Upon roll call, the vote was:

**AYES:**     7 Jeffries, Smith, Kirwin, Knight, Vice, Holmes, Mietzner

**NAYS:**     0

**ABSENT:**  1 Allred

The motion carried

**Attorney & Staff Reports**

City Administrator Smith reminded us about the upcoming Kankakee River Watershed Conference being held at Kankakee Community College on March 10<sup>th</sup>.

Chief Zink informed us that he is working with the School District creating the School Resource Officer position and that the body camera project is underway.

**Executive Session**

Alderman Mietzner made a motion and Alderman Knight seconded to go into Executive Session at 7:31 PM to discuss the Appointment, Employment, Dismissal, Compensation, Discipline, and Performance of an Employee of the City of Wilmington [ILCS 120/2(c)(1)]

Upon roll call, the vote was:

**AYES:**     7 Mietzner, Knight, Kirwin, Jeffries, Vice, Smith, Holmes

**NAYS:**     0

**ABSENT:**  1 Allred

The motion carried.

Alderman Mietzner made a motion and Alderman Holmes seconded to close Executive Session at 7:51 PM

Upon roll call, the vote was:

**AYES:**     7 Mietzner, Holmes, Knight, Kirwin, Jeffries, Vice, Smith

**NAYS:**     0

**ABSENT:**  1 Allred

The motion carried.

**Action Taken Following Executive Session**

No action taken

**Mayor's Report (continued)**

Mayor Dietz stated that those he appoints to the Commissions and Boards are being evaluated and he will be seeking Council approval on his recommendations in May of 2023.

**Adjournment**

The motion to adjourn the meeting was made by Alderman Knight and seconded by Alderman Holmes. Upon the voice vote, the motion carried. The City of Wilmington City Council's regular meeting on February 21, 2023, adjourned at 7:54 p.m.

Respectfully submitted,

  
\_\_\_\_\_  
Joie Ziller, Deputy City Clerk



**Mayoral Proclamation  
175th Anniversary of the I&M Canal**

The I&M Canal opened in 1848 to connect the American heartland to New York Harbor in the east, and to New Orleans in the south, by water; thereby extending the Great Lakes to the Mississippi River. This water highway became an important transportation corridor, enhancing commerce and trading. It brought people and capital to Illinois and was instrumental in the development of the towns along its waterway.

WHEREAS; The I&M Canal, upon completion, linked the Illinois River with Lake Michigan; finalizing an all-water route from New York to New Orleans and establishing a water highway to the west, and;

WHEREAS; The 96-mile I&M Canal ushered in a new era in trade and travel, and set the stage for Illinois to become our nation's most populous inland empire and home to the nation's greatest inland port, and;

WHEREAS; The I&M Canal gave birth to the growth of the Illinois cities of Chicago, Lemont, Lockport, Seneca, Channahon, Utica, Joliet, Ottawa, Morris, LaSalle-Peru, and;

WHEREAS; The Illinois & Michigan Canal was designated as a National Historic Landmark in 1963 and our Nation's First National Heritage Area in 1984; and the Canal Corridor Association designated the coordinating entity for the Illinois & Michigan Canal National Heritage Area in 2006 and the City of Wilmington is within its boundaries designated by the US Congress;

WHEREAS; Today visitors, residents, and school children can visit the Illinois & Michigan Canal National Heritage Area from Chicago to Peru and enjoy the historic, cultural, and natural resources, including its many trails, prairies, historic canal towns, museums, attractions, and festivals, such as experiencing a ride on a mule-pulled canal boat;



NOW THEREFORE: I, Ben Dietz Mayor of the City of Wilmington do hereby affirm a commitment to commemorate the 175th Anniversary of the opening of the I&M Canal and to promote the Illinois & Michigan Canal National Heritage Area (IMCNHA) as we join others in celebrating its 175th Anniversary, by declaring April 2023 to April 2024 as the Year of the I&M Canal.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-seventh.



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Ben Dietz, Mayor  
City of Wilmington  
Will County, Illinois

**ORDINANCE NO.**

**AN ORDINANCE APPROVING A CONDITIONAL USE  
FOR PROPERTY LOCATED AT 110 BRIDGE ST., WILMINGTON, IL 60481  
(Nelly's Drive-Thru Window; PIN No. 03-17-25-304-007-0000)**

**WHEREAS**, the City of Wilmington, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-13-1, has established zoning standards and controls within the City of Wilmington, Will County, Illinois; and

**WHEREAS**, Nelson's Furniture has filed a petition requesting a conditional use permit for the property commonly described as 110 Bridge Street, Wilmington, IL 60481, PIN No. 03-17-25-304-007-0000, and further described in Exhibit A (hereinafter referred to as "Subject Property"), and further certifies that it is the owner of Subject Property; and

**WHEREAS**, the appropriate notices were given and a public hearing was held upon said petition for conditional use by the Planning and Zoning Commission (the "PZC") of the City of Wilmington, Illinois on January 12, 2023; and

**WHEREAS**, at the PZC meeting, the PZC voted to recommend approval of the request by Nelson's Furniture, and summarized as follows:

1. Granting a conditional use to allow for a Drive-Thru Restaurant Window conditioned upon the owner of Subject Property and the City entering into an easement agreement; and

**WHEREAS**, the petition and PZC's recommendation were reviewed by City Council, and City Council finds it is in the best interest of the City of Wilmington and necessary to prevent circumstances that may be adverse to the public health, safety, and welfare to grant a conditional use permit for Subject Property with certain conditions.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Wilmington, Will County, Illinois, as follows:

**SECTION 1:            INCORPORATION OF RECITALS**

The above recitals and all exhibits referred to in this Ordinance are incorporated herein.

**SECTION 2:**

That the following is hereby conditionally granted to Subject Property, as described in Exhibit A:

- A. A Conditional Use to allow for a Drive-Thru Restaurant Window on the east side of the building for Nelly's restaurant conditioned upon (a) the owner of Subject Property paying for the City's necessary parking lot striping and improvements to accommodate

the flow of traffic, and (b) the owner of Subject Property and the City entering into an easement agreement.

Subject Property shall otherwise comply with all other State, federal, county, and City laws and ordinances.

**SECTION 3: SEVERABILITY**

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect

**SECTION 4: REPEALER**

All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed.

**SECTION 5: EFFECTIVE DATE**

That this Ordinance shall be in full force and effect after its adoption and approval, as provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2023 with \_\_\_\_ members voting aye, \_\_\_\_ members voting nay, the Mayor voting \_\_\_\_\_, with \_\_\_\_ members abstaining or passing and said vote being:

Kevin Kirwin	_____	Ryan Jeffries	_____
Dennis Vice	_____	Ryan Knight	_____
Leslie Allred	_____	Jonathan Mietzner	_____
Todd Holmes	_____	Thomas Smith	_____

Approved this \_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Ben Dietz, Mayor

Attest:

\_\_\_\_\_  
Deputy City Clerk

**Exhibit A**

**“Subject Property”**

Common Description: 110 Bridge Street, Wilmington, IL 60481,  
PIN No.: 03-17-25-304-007-0000

Legal Description: THT PRT OF THE SW1/4 OF SEC 25, T33N-R9E., LYING E OF THE E LN OF BLK 2 IN ALDEN'S ISLAND ADDITION TO WILMINGTON, LYING S OF THE N LN OF THE S 200 FT OF SD BLK 2 IN ALDEN'S ISLAND ADDITION EXTENDED E, LYING N OF THE N LN OF BALTIMORE ST & LYING W OF THE FOLLOWING DESCRIBED LN: BEG AT A PT ON THE N LN OF SD BALTIMORE ST THT IS MEASURED S 64 DEG 00' W, 263 FT FROM THE SW COR OF BLK 4 IN ORIGINAL TOWN OF WILMINGTON; THC N 30 DEG W TO THE SD N LN OF SD S 200 FT OF BLK 2 IN ALDEN'S ISLAND ADDITION EXTENDED EAST (EX THT PRT TO THE CITY OF WILMINGTON PER R72-032100 DAF: THT PRT OF THE SW1/4 OF SEC 25, T33N-R9E., LYING E OF THE E LN OF BLK 2 IN ALDEN'S ISLAND ADDITION TO WILMINGTON, LYING S OF THE N LN OF THE S 200 FT OF SD BLK 2, IN ALDEN'S ISLAND ADDITION EXTENDED E, LYING N OF THE N LN OF BALTIMORE STREET AS NOW (1968) LOCATED & LYING W OF THE FOLLOWING DESCRIBED LN, BEG AT A PT ON THE N LN OF SD BALTIMORE ST THT IS MEASURED S 64 DEG 00' W, 263 FT FROM THE SW COR OF BLK 4 IN THE ORIGINAL TOWN OF WILMINGTON; THC N 30 DEG W TO THE SD N LN OF THE SD S 200 FT OF BLK 2 IN ALDEN'S ISLAND ADDITON EXTENDED E. SPECIFICULLY EX FROM THE FOREGOING THT PRT THEREOF LYING W'LY OF THE FOLLOWING DESCRIBED LN: BEG AT A PT ON THE N LN OF BALTIMORE ST AS NOW (1968) LOCATED IN THE CITY OF WILMINGTON THT IS MEASURED S 64 DEG 00' W, 278.50 FT FROM THE SW COR OF BLK 4 IN THE ORIGINAL TOWN OF WINCHESTER, NOW WILMINGTON; THC N 45 DEG 43' W TO A LN 200 FT N OF THE S LN OF BLK 2 IN ALDEN'S ISLAND ADDITION TO WILMINGTON) & ALSO THE S 200 FT OF BLK 2 IN ALDEN'S ISLAND ADDITION TO THE CITY OF WILMINGTON IN SD SW1/4 OF SEC 25, T33N-R9E. TOGETHER WITH THT PRT OF THE S 200 FT OF BLK 2 IN ALDEN'S ISLAND ADDITION TO THE CITY OF WILMINGTON IN SECS 25 & 36 IN T33N-R9E. & ALSO THT PRT OF THE SW1/4 OF SD SEC 25, LYING E OF THE E LN OF BLK 2 IN ALDEN'S ISLAND ADDITION TO WILMINGTON, LYING S OF THE N LN OF THE OF THE S 200 FT OF SD BLK 2 IN ALDEN'S ISLAND ADDITION EXTENDED E, LYING N OF THE N LN OF BALTIMORE ST AS NOW (1968) LOCATED, COMM AT A PT ON THE N LN OF BALTIMORE ST THT IS MEASURED S 64 DEG 00' 00" W, 204.14 FT FROM THE SW COR OF BLK 4 IN THE ORIGINAL TOWN OF WILMINGTON; THC N 45 DEG 43' 00" W, 60.09 FT TO THE POB; THC CONT N 45 DEG 43' 00" W, 170 FT; THC S 45 DEG 43' 00" W, 70.02 FT TO THE W'LY LN OF LANDS CONVEYED TO THE CITY OF WILMINGTON BY DOC# R72-032100; THC S 45 DEG 43' 00" E, 170 FT; THC N 45 DEG 43' 00" E, 70.02 FT TO THE POB. DIV/CONSOL PER R2002-185756

**ORDINANCE NO.**

**ORDINANCE APPROVING A MAP AMENDMENT FROM R1 AND R3 TO  
B3 - GENERAL COMMERCIAL AND A CONDITIONAL USE FOR VACANT  
PROPERTY LOCATED ON SCHOOL STREET, WILMINGTON, IL 60481  
(PIN Nos. 03-17-26-403-009-0000 and 03-17-26-403-011-0000)**

**WHEREAS**, the City of Wilmington, pursuant to the Illinois Municipal Code, 65 ILCS 5/11-13-1, has established zoning standards and controls within the City of Wilmington, Will County, Illinois; and

**WHEREAS**, KAB Group Development, LLC has filed a petition requesting a map amendment and conditional use permit for the vacant property on School Street, Wilmington, IL 60481, PIN Nos. 03-17-26-403-009-0000 and 03-17-26-403-011-0000, and further described in Exhibit A (hereinafter referred to as “Subject Property”), and further certifies that it is the owner of Subject Property; and

**WHEREAS**, the appropriate notices were given and a public hearing was held upon said petition for a map amendment and conditional use by the Planning and Zoning Commission (the “PZC”) of the City of Wilmington, Illinois on January 12, 2023; and

**WHEREAS**, at the PZC meeting, the PZC voted to recommend approval of the request by KAB Group Development, LLC, and summarized as follows:

1. Granting a map amendment from R-1 and R3 to B-3 General Commercial with a conditional use to allow for self-storage warehousing conditioned upon approval by City staff of a landscaping plan that complies with the City’s ordinances and includes adequate screening; and

**WHEREAS**, the petition and PZC’s recommendation were reviewed by City Council, and City Council finds it is in the best interest of the City of Wilmington and necessary to prevent circumstances that may be adverse to the public health, safety, and welfare to grant a map amendment and a conditional use permit for Subject Property with certain conditions.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Wilmington, Will County, Illinois, as follows:

**SECTION 1:            INCORPORATION OF RECITALS**

The above recitals and all exhibits referred to in this Ordinance are incorporated herein.

**SECTION 2:**

That the following is hereby conditionally granted to Subject Property conditioned upon approval by City staff of a landscaping plan that includes adequate screening on any sides of the Subject Property that are adjacent to residential parcels and complies with the City’s ordinances:

- A. Subject Property, as described in Exhibit A, is hereby granted a map amendment from an R-1 and R-3 Zoning Districts to a B-3 General Commercial Zoning District as defined in the Wilmington Code of Ordinances, a copy of which is attached hereto as Exhibit B. The Zoning Map of the City of Wilmington shall be amended to reflect such map amendment; and
- B. Conditional Use is granted to Subject Property to allow for self-storage warehousing, subject to the regulations set forth in Section 150.17 of the City of Wilmington Code of Ordinances.

Subject Property shall otherwise comply with all other State, federal, county, and City laws and ordinances.

**SECTION 3: SEVERABILITY**

If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect

**SECTION 4: REPEALER**

All ordinances or parts of ordinances conflicting with any provisions of this ordinance are hereby repealed.

**SECTION 5: EFFECTIVE DATE**

That this Ordinance shall be in full force and effect after its adoption and approval, as provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2023 with \_\_\_\_ members voting aye, \_\_\_\_ members voting nay, the Mayor voting \_\_\_\_, with \_\_\_\_ members abstaining or passing and said vote being:

Kevin Kirwin	_____	Ryan Jeffries	_____
Dennis Vice	_____	Ryan Knight	_____
Leslie Allred	_____	Jonathan Mietzner	_____
Todd Holmes	_____	Thomas Smith	_____

Approved this \_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Ben Dietz, Mayor

Attest:

\_\_\_\_\_  
Deputy City Clerk

**Exhibit A**

**“Subject Property”**

Common Description: School Street, Wilmington, IL 60481,  
PIN No.: 03-17-26-403-009-0000 and 03-17-26-403-011-0000  
Legal Description: THE W1/2 LOTS 8 & 9 IN GOODINGS SUB OF BLK 11OF  
THOMPSONS SUB, A SUB OF PRT OF THE W1/2 SE1/4 SEC  
26 T33N-R9E PIN #03-17-26-403-009-0000  
and  
THE E1/2 LOT 9 IN GOODINGS SUB OF BLK 11OF  
THOMPSONS SUB, A SUB OF PRT OF THE W1/2 SE1/4 SEC  
26 T33N-R9E  
PIN #03-17-26-403-011-0000

## Exhibit B

150.62 - B-3 General Commercial District.

- (A) Purpose and intent. The B-3 General Commercial District is intended to accommodate retail and wholesale commercial activities which are adjacent to arterial streets and serves the population of the city and its surrounding areas.
- (B) Permitted land uses and developments.
- (1) Any use permitted in the B-2 Light Commercial District;
  - (2) Accessory uses;
  - (3) Amusement establishments including, but not limited to, bowling alleys, pool halls, dance halls, skating rinks, video arcades and banquet facilities;
  - (4) Animal hospitals;
  - (5) Automobile service stations, repair facilities and car washes when used in conjunction with the automobile service station;
  - (6) Automobile, truck and recreational vehicle sales and rental;
  - (7) Bars, taverns and package liquor stores;
  - (8) Boat showrooms, sales and repairs;
  - (9) Electrical showrooms and shops;
  - (10) Farm implement, feed and seed stores;
  - (11) Garages for storage, repair and servicing of motor vehicles, including body repair, painting and engine rebuilding;
  - (12) Greenhouses, nurseries, garden supply, tool and seed stores;
  - (13) Hospitals;
  - (14) Hotels and motels;
  - (15) Motor vehicle sales;
  - (16) Newspaper offices;
  - (17) Parking lots and parking structures as a principal use;
  - (18) Pawnshops;
  - (19) Plumbing and heating service and equipment stores;
  - (20) Printing and publishing establishments;
  - (21) Taxidermists;
  - (22) Tire stores, sales and service;
  - (23) Union halls, hiring halls and trade association offices/meeting rooms.
- (C) Conditional land uses and developments.
- (1) B-2 permitted and conditional uses which include drive-through facilities;
  - (2) Amusement parks, including but not limited to permanent carnivals, kiddie parks and other similar outdoor amusements;
  - (3) Building contractor's office and material storage;



- (4) Building material and products, sales, storage and accessory manufacturing of building components;
  - (5) Bus and train stations;
  - (6) Cartage and express facilities;
  - (7) Car washes;
  - (8) Financial institutions, with drive-through facilities;
  - (9) Kennels;
  - (10) Outdoor storage in accordance with Section 150.85 of this chapter;
  - (11) Planned unit developments;
  - (12) Public utility and governmental service uses on lots having areas, widths, yards and other conditions as approved by the city council. Including, but not limited to:
    - (a) Electrical substations and booster stations,
    - (b) Filtration plant, pumping station, well and water reservoir,
    - (c) Sewage treatment plant,
    - (d) Telephone exchange and microwave relay tower,
    - (e) Other government and utility uses;
  - (13) Restaurants which include drive-through facilities;
  - (14) Self-storage warehouse establishments;
  - (15) Stadiums and arenas, convention, civic and exhibition centers;
  - (16) Theaters, outdoor and drive-in;
  - (17) Warehouse and storage facilities;
  - (18) Farming;
  - (19) Campgrounds with on-site potable water and toilet facilities;
  - (20) Accessory wind devices used primarily for generation of electricity for on-site use with a rated capacity of not more than 100 kilowatts (kW), such as a wind turbine, wind charger, or windmill ("wind device"). A wind device may be mounted on the roof or side of a structure provided it does not exceed 15 feet in height above the highest point of the structure, or ground-mounted on a pole or tower not exceeding 70 feet in height. Only one wind device is permitted on a zoning lot. A ground-mounted wind device must be located on a zoning lot of at least five acres, and be set back at least 125 percent of its height from all zoning lot lines. The noise level of a wind device shall not exceed 60 A-weighted decibels (dBA) as measured at the nearest zoning lot line, except during short-term events such as utility outages and severe windstorms;
  - (21) Mobile home parks on no more than 80 acres of land that is adjacent to land used for campgrounds, forest preserves, hunting preserves and/or clubs or private recreation facilities, subject to development and operation in compliance with chapter 161 of the City Code; and
  - (22) Residential uses consistent with R-3 District standards on land that is adjacent to land used for campgrounds, forest preserves, hunting preserves and/or clubs or private recreation facilities, subject to development in accordance with a residential planned unit development plan approved in accordance with article 6 of the zoning ordinance.
- (D) Bulk and density requirements.
- (1) Minimum lot area. No minimum lot area is established in this district. However, lot dimensions shall be sufficient to meet the remaining density and dimensional regulations.

- (2) Minimum lot width. No minimum lot width is required.
- (3) Building setback requirements.
  - (a) Front yard. No principal building shall be allowed within 40 feet of any lot line or street right-of-way line.
  - (b) Side yard. None required except per subsection (D)(3)(e) of this section.
  - (c) Rear yard. None required except per subsection (D)(3)(e) of this section.
  - (d) Exception. Building setback requirements described above for side and rear yards adjacent to a railroad or a railroad siding shall not be applicable.
  - (e) Adjacency to a residential district. Where a side yard or rear yard in this district abuts a residential zoning district, no principal building shall be allowed within 30 feet of the residential lot line.
- (4) Maximum site coverage. Site coverage shall not exceed 70%.
- (5) Building height limitations. No building shall exceed three stories or 45 feet in height.
- (E) Other development regulations.
  - (1) Section 150.110 et seq. (Off-Street Parking and Loading).
  - (2) Section 150.120 et seq. (Signs).

(Ord. 1324, passed 1-4-00; Am. Ord. 10-02-16-01, passed 2-16-10)

**RESOLUTION NO. 2023-06**

**A RESOLUTION OF THE CITY OF WILMINGTON  
IN SUPPORT OF TAX INCREMENT FINANCING**

WHEREAS, the Mayor and City Council for the City of Wilmington, Will County, Illinois has the responsibility to promote economic development and revitalization of underperforming areas within the City; and

WHEREAS, the City of Wilmington recognizes that Tax Increment Financing (TIF) is a means to address areas of blight, support development, and promote local job creation and retention; and

WHEREAS, TIF incentives directly contribute to the expansion of the local tax base and attract private development and new businesses to the City of Wilmington; and

WHEREAS, the availability of TIF is a critical mechanism to spur economic development for the City of Wilmington;

WHEREAS, the Mayor and City Council for the City of Wilmington, Will County, Illinois find that the availability of TIF as an economic development tool is essential for the continuing economic vitality of the City of Wilmington.

NOW, THEREFORE, be it resolved by the Mayor and City Council for the City of Wilmington, Will County, Illinois. as follows:

- Section 1. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.
- Section 2. The City of Wilmington urges the Illinois General Assembly and Governor to protect TIF in its current form as a valuable economic development tool without additional restrictions on municipal governments and the communities they serve.
- Section 3. The City Clerk shall forward a copy of this Resolution to the Illinois Municipal League.

ADOPTED this 7<sup>th</sup> day of March 2023 with      members voting aye, 0 members voting nay, the Mayor voting N/A, with 0 members abstaining or passing and said vote being:

Ryan Jeffries	_____	Kevin Kirwin	_____
Ryan Knight	_____	Dennis Vice	_____
Jonathan Mietzner	_____	Leslie Allred	_____
Thomas Smith	_____	Todd Holmes	_____

Approved this 7<sup>th</sup> day of March 2023



Attest:

---

Ben Dietz, Mayor

---

Joie Ziller, Deputy City Clerk

# TAX INCREMENT FINANCING (TIF)



## BACKGROUND

Illinois adopted Tax Increment Financing (TIF) in 1977. A reform to this law was enacted in 1999. Since the first TIF statute was adopted by the State of California in 1952, 49 states have passed legislation authorizing the use of TIF. According to the most recently available data from the Illinois Office of Comptroller (IOC), there may be up to 1,496 TIF districts located in as many as 537 Illinois municipalities.

## WHAT IS TIF?

TIF is a mechanism for municipalities to spur economic development in specific geographic areas that are blighted and deteriorating. To do this, local taxing bodies create a TIF redevelopment project area, or TIF district, whereby the Equalized Assessed Value (EAV) of the property in the area is set at a base amount. Property taxes collected on properties included in the TIF district at the time of its designation continue to be distributed to the school districts and all other affected taxing districts in the same manner as if the district did not exist. Establishment of a TIF does not reduce property tax revenues available to the overlapping taxing bodies.

A tax increment is the difference between the amount of property tax revenue generated before TIF district designation and the amount of property tax revenue generated after TIF designation. Only property taxes generated by the incremental increase in the EAV of these properties after that time are available for use in the TIF district by a municipality.

## HOW IS A TIF DISTRICT CREATED?

In order to establish a TIF district, a local government must find that development or redevelopment of the area would not occur “but for” the creation and use of TIF. Illinois law specifies a number of requirements that must be satisfied for an area to qualify as a TIF district, beginning with identifying the district and the physical and economic deficiencies that need to be cured. Specifically, state law requires that the proposed area must meet one or more of three conditions:

1. Blighted conditions;
2. Conservation conditions; and,
3. Industrial park conservation conditions.

If one or more of these conditions is identified, municipal officials and a Joint Review Board, made up of representatives from affected local taxing bodies, must review a plan for the redevelopment of the TIF area. A public hearing must be held where residents and other interested parties can express their thoughts on the subject. If the plan for redevelopment is approved by the Joint Review Board, the municipality may adopt the plan by a majority vote of the corporate authorities. If the Joint Review Board rejects the plan for redevelopment, the municipality may proceed but the plan must be approved by a three-fifths vote of the corporate authorities. Finally, the mayor or village president will sign the ordinance into law. No state or federal approval is required for creation.



## HOW DOES TIF WORK AFTER CREATION?

The growth of the EAV of property within the TIF district (the increment) is collected into a special fund for use by the municipality to make additional eligible investments in the TIF project areas. The reinvestment generates additional growth in property value, which results in more revenue growth for reinvestment. Once a redevelopment project is completed and has been paid for, the TIF district may be dissolved and the tax base returned to full use by all eligible taxing bodies.

## HOW LONG DOES A TIF DISTRICT LAST?

Under Illinois law, a TIF district may last for up to a maximum of 23 years. This period can be extended by 12 additional years upon approval by the Illinois General Assembly. In some cases, the General Assembly has extended TIF districts twice, for a total of 47 years. Municipalities seeking extensions must receive approval from the General Assembly, which requires, by rule, letters of support from overlapping units of local government whose boundaries fall within the TIF district.

## OTHER FUNDING SOURCES BESIDES TIF

TIFs are more frequently used now because other development tools, like Industrial Revenue Bonds and Urban Development and Infrastructure Grants, are no longer readily available to local governments.

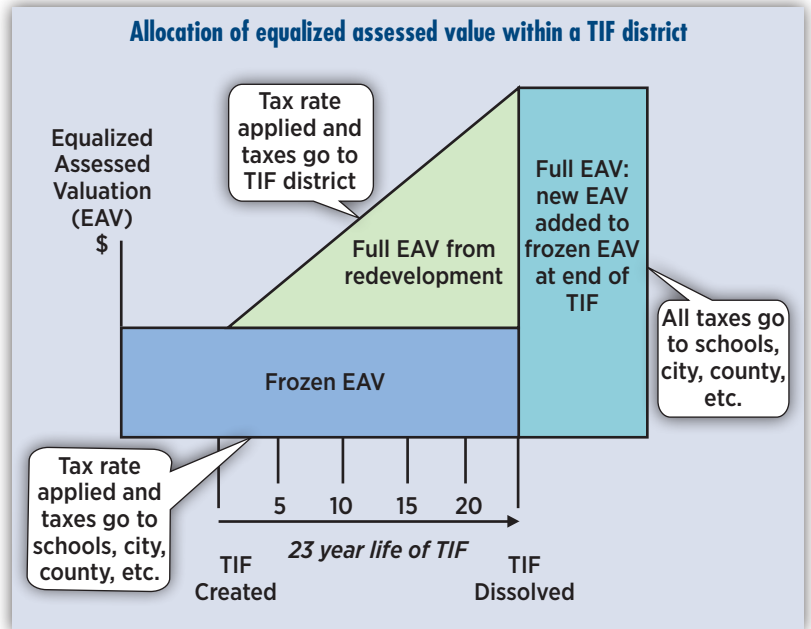
Federal and state aid to local governments has been reduced. At the same time, unfunded federal and state mandates have increased the financial burden on most municipalities. Factor in state imposed property tax caps, and the funding problems facing local governments make it obvious that local governments are left to do more with less.

TIF offers local governments a resource to revitalize their communities by expanding their tax base, offsetting, in part, the federal and state funds that are no longer available to them without imposing increased taxes on the whole community.

## WHAT CAN TIF BE USED FOR?

TIF funds may be used to reimburse eligible “redevelopment projects costs” as defined in the Act.<sup>1</sup> The statute provides a comprehensive list of associated project and reimbursement costs which may include, but are not limited to, the following actions occurring within the TIF district:

- Administration of a TIF redevelopment project;
- Property acquisition, renovation, rehabilitation and demolition;
- Construction of public works or improvements;
- Job training related to the TIF area;
- Financing costs, including interest assistance;
- Studies, surveys and plans;
- Marketing related to sites within the TIF; and,
- Professional services, such as architecture and design services.



Source: The “Final Report of the TIF Reform Task Force,” June 1, 2018.

<sup>1</sup> 65 ILCS 5/11-74.4-3(q).

## **DESIGNATION AND DISTRIBUTION OF SURPLUS FUNDS**

The TIF Act provides that any portion of an annual ending balance of a TIF fund that has not been identified (or is not identified as being required, pledged, earmarked or otherwise designated for payment or securing of obligations or anticipated redevelopment project costs) shall be designated as surplus. (Section 11-74.4-7)

The Act also provides for the distribution of surplus funds annually, within 180 days after the close of a municipality's fiscal year. Surplus funds are paid by the municipal treasurer to the county collector, the Illinois Department of Revenue (IDOR) and to the municipality in direct proportion to the incremental tax revenue received. The county treasurer is then required to make distributions to the respective taxing districts.

## **TIF REPORTING REQUIREMENTS**

The Act currently requires TIF municipalities to submit a report to IOC, and all taxing districts overlapping the redevelopment project area, no later than 180 days after the close of each municipal fiscal year detailing information about a TIF district. The report must include, but is not limited to, an analysis of the special tax allocation fund, a statement setting forth all activities undertaken in furtherance of the objectives of a TIF District Redevelopment Plan, a legal opinion that the municipality is in compliance with the TIF Act and any amendments to the redevelopment plan.

On May 28, 2021, the General Assembly passed HB 571 (Rep. Carroll, D-Northbrook/Sen. Gillespie, D-Arlington Heights). This legislation amends the TIF Act and expands mandated reporting requirements to include a comparison between the original projected increment and jobs for the TIF district, the actual amount of increment and jobs created to date, and an update on the stated rate of return for a development and the actual debt service on any notes issued by the municipality. In addition, HB 571 authorizes municipalities to select a consultant to provide an analysis of the projected increment and the actual debt service on any notes issued by the municipality. The Illinois Municipal League (IML) opposed the legislation as an unfunded mandate.

## **IML ADVOCACY**

IML and numerous local elected officials, as well as the General Assembly – shown through its continued actions granting and extending TIF designations – firmly believe in the value of TIF as a mechanism to spur economic development in communities across the state.

While IML will not advocate for proposals that would be harmful to or reduce the effectiveness of TIF, we remain committed to serving as a partner with and all stakeholders in improving and addressing perceived issues with the TIF Act.

**iml.org**






# MEMO

**Date:** March 3, 2023

**To:** Honorable Mayor Dietz and City Council Members

**From:** Jeannine Smith, City Administrator 

**Cc:** Joie Ziller, Deputy Clerk  
Nancy Gross, Finance Director

**Re:** Motion Authorizing Resolution No. 2023-07, a Resolution Authorizing Participation in the MissionSquare Retirement Governmental Money Purchase Plan

**Budget Impact:** Varies by year

**History:** On January 16, 2023, Mayor Dietz executed the MAP Collective Bargaining Agreement for May 1, 2021 to April 30, 2025. Within this Agreement is a provision for accrued sick time conversion to a 401a Money Purchase Plan. This resolution gives the City Administrator authority to execute plan documents with the ICMA Retirement Corporation dba MissionSquare Retirement.

**Staff Analysis:** There has been significant discussion on the matter of how the 401a Plan for officers will be calculated. As a reminder, please consider the following contribution provisions:

“employees with at least seven years of service as a Wilmington Police Officer and who have in excess of three hundred and fifty (350) sick hours will have the cash value of that excess amount deposited into a 401A account that was previously established for the employee (as described in Section 14.8 of this Agreement). Every May 1 thereafter, employees who have at least seven years of service as a Wilmington Police Officer and who have in excess of three hundred and fifty (350) sick leave hours will have the cash value of that excess amount (not to exceed seventy-two (72) hours) deposited into the employee's aforementioned 401A account. The employee's remaining sick leave balance will then be reduced to 350 hours...”

In consideration of the aforementioned, Staff respectfully requests a motion to approve **Resolution No. 2023-07, a Resolution Authorizing Participation in the MissionSquare Retirement Governmental Money Purchase Plan**

Thank you in advance for your consideration of this request. Please do not hesitate to reach out to me with questions.



**RESOLUTION FOR A LEGISLATIVE BODY RELATING TO A MONEY PURCHASE PLAN**

Resolution of City of Wilmington, Illinois (Employer Name).

Plan Number: **10 333.0000**

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the establishment of a money purchase retirement plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the Employer desires that its money purchase retirement plan be administered by MissionSquare Retirement;

NOW THEREFORE BE IT RESOLVED that the Employer hereby establishes or has established a money purchase retirement plan (the "Plan") in the form of: (Select one)

The MissionSquare Retirement Governmental Money Purchase Plan, pursuant to the specific provisions of the Adoption Agreement (executed copy attached hereto).

The plan document provided by the Employer (executed copy attached hereto).

The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries; and

BE IT FURTHER RESOLVED that the Employer hereby adopts the Declaration of Trust of VantageTrust Company dated May 2001, intending this adoption to be operative with respect to any retirement or deferred compensation plan subsequently established by the Employer, if the assets of the Plan are to be invested in the trust created by such Declaration of Trust (the "VantageTrust") that provides for the commingled investment of retirement funds.

BE IT FURTHER RESOLVED that the Employer hereby agrees to serve as trustee under the Plan and to invest funds held under the Plan in the VantageTrust or in any other qualified investment options for the Plan; and

BE IT FURTHER RESOLVED that the City Administrator use title of official, not name) shall be the coordinator for the Plan; shall receive reports, notices, etc., from MissionSquare Retirement or the VantageTrust; shall cast, on behalf of the Employer, any required votes under the VantageTrust; may delegate any administrative duties relating to the Plan to appropriate departments; and

BE IT FURTHER RESOLVED that the Employer hereby authorizes City Administrator (use title not name) to execute all necessary agreements with MissionSquare Retirement incidental to the administration of the Plan.

I, Jolynn Ziller Clerk of the City of Wilmington (City, County, etc.) of Will,

do hereby certify that the foregoing resolution proposed by \_\_\_\_\_

(Council Member, Trustee, etc.) of \_\_\_\_\_,

was duly passed and adopted by the \_\_\_\_\_ (Council, Board, etc.) of \_\_\_\_\_

the (City, County, etc.) of \_\_\_\_\_ at a regular meeting thereof assembled this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, by the following vote:

AYES:

NAYS:

ABSENT:

(SEAL)

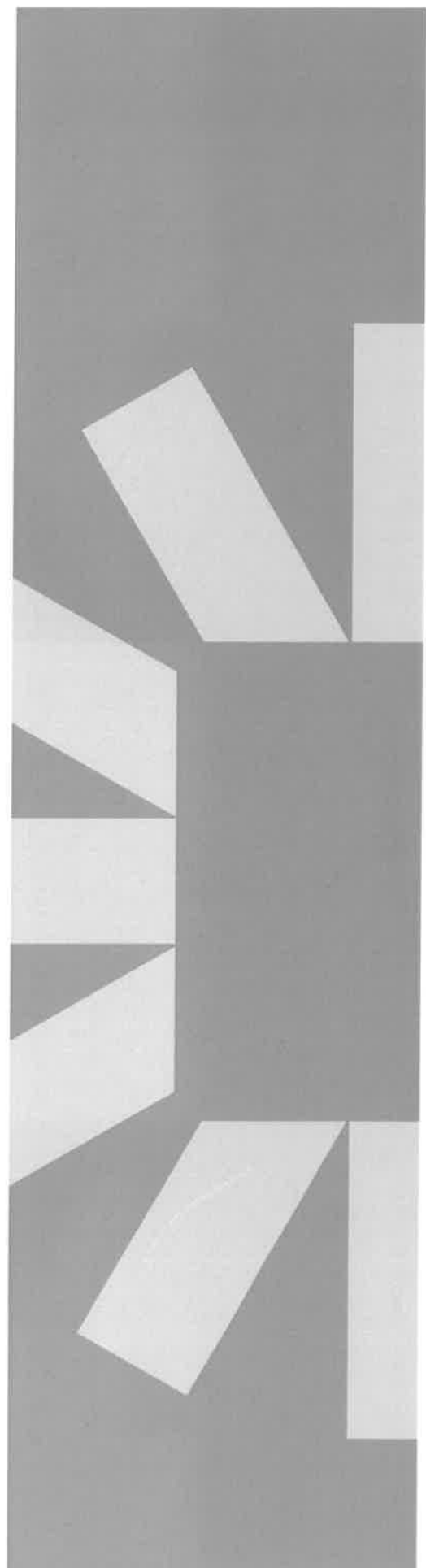
\_\_\_\_\_  
Clerk of the (City, County, etc.)

ICMA Retirement Corporation  
doing business as

# MissionSquare Retirement Governmental Money Purchase Plan Adoption Agreement

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**MissionSquare**  
RETIREMENT



# MissionSquare Retirement Governmental Money Purchase Plan Adoption Agreement

Plan Number 10-0333

The Employer hereby establishes a Money Purchase Plan to be known as:  
CITY OF WILMINGTON 401(A) PLAN

(the "Plan") in the form of the MissionSquare Retirement Governmental Money Purchase Plan.

## New Plan or Amendment and Restatement (Check One):

**Amendment and Restatement**

This Plan is an amendment and restatement of an existing defined contribution money purchase plan. Please specify the name of the defined contribution money purchase plan which this Plan hereby amends and restates:

**Effective Date of Restatement.** The effective date of the Plan shall be:

*(Note: The effective date can be no earlier than the first day of the Plan Year in which this restatement is adopted. If no date is provided, by default, the effective date will be the first day of the Plan Year in which the restatement is adopted.)*

**New Plan**

**Effective Date of New Plan.** The effective date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate effective date is hereby specified:

May 1, 2023

*(Note: An alternate effective date can be no earlier than the first day of the Plan Year in which the Plan is adopted.)*

## I. EMPLOYER: CITY OF WILMINGTON

*(The Employer must be a governmental entity under Internal Revenue Code § 414(d))*

## II. SPECIAL EFFECTIVE DATES

Please note here any elections in the Adoption Agreement with an effective date that is different from that noted above.

*(Note: provision and effective date.)*

## III. PLAN YEAR

The Plan Year will be:

January 1 - December 31 (**Default**)

The 12-month period ending: 5/1 4/30  
Month Day

**IV. Normal Retirement Age shall be age 50 (not less than 55 nor in excess of 65).**

*Important Note to Employers:* Normal Retirement Age is significant for determining the earliest date at which the Plan may allow for in-service distributions. Normal Retirement Age also defines the latest date at which a Participant must have a fully vested right to his/her Account. There are IRS rules that limit the age that may be specified as the Plan's Normal Retirement Age. The Normal Retirement Age cannot be earlier than what is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.

In 2016, the Internal Revenue Service proposed regulations that would provide rules for determining whether a governmental pension plan's normal retirement age satisfies the Internal Revenue Code's qualification requirements. A normal retirement age that is age 62 or later is deemed to be not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed. Whether an age below 62 satisfies this requirement depends on the facts and circumstances, but an Employer's good faith, reasonable determination will generally be given deference. A special rule, however, says that a normal retirement age that is age 50 or later is deemed to be not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed if the participants to which this normal retirement age applies are qualified public safety employees (within the meaning of section 72(t)(10)(B)). These regulations are proposed to be effective for employees hired during plan years beginning on or after the later of: (1) January 1, 2017; 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 3 months after the final regulations are published in the Federal Register. In the meantime, however, governmental plan sponsors may rely on these proposed regulations.

**In lieu of age-based Normal Retirement Age, the Plan shall use the following age and service-based Normal Retirement Age** \_\_\_\_\_

*Important Note to Employers:* Before using a Normal Retirement Age based on age and service, a plan sponsor should review the proposed regulations (81 Fed. Reg. 4599 (Jan. 27, 2016)) and consult counsel.

**V. COVERED EMPLOYMENT CLASSIFICATIONS**

1. The following group or groups of Employees are eligible to participate in the plan:

- All Employees
- All Full Time Employees
- Salaried Employees
- Non-union Employees
- Management Employees
- Public Safety Employees
- General Employees
- Other Employees (Specify the group(s) of eligible Employees below. Do not specify Employees by name. Specific positions are acceptable.) MAP Police Chapter 129 w/ 7 years o service

The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals, or other material in effect in the state or locality of the Employer. The eligibility requirements cannot be such that an Employee becomes eligible only in the Plan Year in which the Employee terminates employment.

**Note:** As stated in Sections 4.08 and 4.09, the Plan may, however, provide that Final Pay Contributions or Accrued Leave Contributions are the only contributions made under the Plan.

2. Period of Service required for participation
- N/A – The Employer hereby waives the requirement of a Period of Service for participation. Employees are eligible to participate upon employment. (***“N/A” is the default provision under the Plan if no selection is made.***)
  - Yes. The required Period of Service shall be \_\_\_\_\_ months (not to exceed 12 months.)  
The Period of Service selected by the Employer shall apply to all Employees within the Covered Employment Classification.
3. Minimum Age (Select One) – A minimum age requirement is hereby specified for eligibility to participate.
- Yes. Age \_\_\_\_\_ (not to exceed age 21.)
  - N/A – No minimum age applies (***“N/A” is the default provision under the Plan if no selection is made.***)

## VI. CONTRIBUTION PROVISIONS

1. **The Employer shall contribute as follows:** (Choose all that apply, but at least one of Options A or B. If Option A is not selected, Employer must pick up Mandatory Participant Contributions under Option B.)

**Fixed Employer Contributions With or Without Mandatory Participant Contributions.**  
(If Option B is chosen, please complete section C.)

- A. Fixed Employer Contributions. The Employer shall contribute on behalf of each Participant \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_ for the Plan Year (subject to the limitations of Article V of the Plan).

Mandatory Participant Contributions

- are required       are not required

to be eligible for this Employer Contribution.

- B. Mandatory Participant Contributions for Plan Participation.

Required Mandatory Contributions. A Participant is required to contribute (subject to the limitations of Article V of the Plan) the specified amounts designated in items (i) through (iii) of the Contribution Schedule below:

- Yes       No

Employee Opt-In Mandatory Contributions. To the extent that Mandatory Participant Contributions are not required by the Plan, each Employee eligible to participate in the Plan shall be given the opportunity when first eligible to participate in the Plan or any other plan or arrangement of the Employer described in Code section 219(g)(5)(A), to irrevocably elect to contribute Mandatory Participant Contributions by electing to contribute the specified amounts designated in items (i) through (iii) of the Contribution Schedule below for each Plan Year (subject to the limitations of Article V of the Plan):

- Yes       No

Contribution Schedule. (Any percentage or dollar amount entered below must be greater than 0% or \$0.)

- i. \_\_\_\_\_% of Earnings,
- ii. \$\_\_\_\_\_, or
- iii. a whole percentage of Earnings between the range of \_\_\_\_\_ (insert range of percentages between 1% and 20% inclusive (e.g., 3%, 6%, or 20%; 5% to 7%)), as designated by the Employee in accordance with guidelines and procedures established by the Employer for the Plan Year as a condition of participation in the Plan. A Participant must pick a single percentage and shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

Employer "Pick up". The Employer hereby elects to "pick up" the Mandatory Participant Contributions<sup>1</sup> (pick up is required if Option A is not selected).

Yes       No

**("Yes" is the default provision under the Plan if no selection is made.)**

- C. Election Window (Complete if Option B is selected:)

Newly eligible Employees shall be provided an election window of \_\_\_\_ days (no more than 60 calendar-days) from the date of initial eligibility during which they may make the election to participate in the Mandatory Participant Contribution portion of the Plan. Participation in the Mandatory Participant Contribution portion of the Plan shall begin the first of the month following the end of the election window.

An Employee's election is irrevocable and shall remain in force until the Employee terminates employment or ceases to be eligible to participate in the Plan. In the event of re-employment to an eligible position, the Employee's original election will resume. In no event does the Employee have the option of receiving the pick-up contribution amount directly.

2. The Employer may also elect to make Employer Matching Contributions as follows:

- Fixed Employer Match of After-Tax Voluntary Participant Contributions.** (Do not complete this section unless the Plan permits after-tax Voluntary Participant Contributions under Section VI.3 of the Adoption Agreement.).

The Employer shall contribute on behalf of each Participant \_\_\_\_\_% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed \_\_\_\_\_% of Earnings or \$\_\_\_\_\_. Under this option, there is a single, fixed rate of Employer Contributions, but a Participant may decline to make the Voluntary Participant Contributions in any Plan Year, in which case no Employer Contribution will be made on the Participant's behalf in that Plan Year.

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<sup>1</sup> Neither an IRS opinion letter nor a determination letter issued to an adopting Employer is a ruling by the Internal Revenue Service that Participant contributions that are "picked up" by the Employer are not includable in the Participant's gross income for federal income tax purposes. Pick-up contributions are not mandated to receive private letter rulings; however, if an adopting Employer wishes to receive a ruling on pick-up contributions, they may request one in accordance with Revenue Procedure 2012-4 (or subsequent guidance).

- Variable Employer Match of After-Tax Voluntary Participant Contributions.** (Do not complete this section unless the Plan permits after-tax Voluntary Participant Contributions under section VI.3 of the Adoption Agreement.)

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

\_\_\_\_\_ % of the Voluntary Participant Contributions made by the Participant for the Plan Year (not including Voluntary Participant Contributions exceeding \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_);

PLUS \_\_\_\_\_ % of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Voluntary Participant Contributions exceeding in the aggregate \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed \$ \_\_\_\_\_ or \_\_\_\_\_ % of Earnings, whichever is  more or  less

- Fixed Employer Match of Participant 457(b) Plan Deferrals.** The Employer shall contribute on behalf of each Participant \_\_\_\_\_ % of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has deferred \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_ to the Employer's 457(b) deferred compensation plan. Under this option, there is a single, fixed rate of Employer Contributions, but a Participant may decline to make the required 457(b) deferrals in any Plan Year, in which case no Employer Contribution will be made on the Participant's behalf in that Plan Year.

- Variable Employer Match of Participant 457(b) Plan Deferrals.**

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

\_\_\_\_\_ % of the elective deferrals made by the Participant to the Employer's 457(b) plan for the Plan Year (not including Participant contributions exceeding \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_);

PLUS \_\_\_\_\_ % of the elective deferrals made by the Participant to the Employer's 457(b) plan for the Plan Year in excess of those included in the above paragraph (but not including elective deferrals made by a Participant to the Employer's 457(b) plan exceeding in the aggregate \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed \$ \_\_\_\_\_ or \_\_\_\_\_ % of Earnings, whichever is  more or  less

3. Each Participant may make a Voluntary Participant Contribution, subject to the limitations of Section 4.06 and Article V of the Plan:

Yes                       No    (*"No" is the default provision under the Plan if no selection is made.*)

4. Employer contributions for a Plan Year shall be contributed to the Trust in accordance with the following payment schedule (no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends, or in accordance with applicable law):

Weekly                       Biweekly                       Monthly                       Annually in: \_\_\_\_\_  
Specify Month

5. Participant contributions for a Plan Year shall be contributed to the Trust in accordance with the following payment schedule (no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends, or in accordance with applicable law):

Weekly       Biweekly       Monthly       Annually in: \_\_\_\_\_  
Specify Month

6. In the case of a Participant performing qualified military service (as defined in Code section 414(u)) with respect to the Employer:

A. Plan contributions will be made based on differential wage payments:

Yes       No (*"Yes" is the default provision under the Plan if no selection is made.*)

B. Participants who die or become disabled will receive Plan contributions with respect to such service:

Yes       No (*"No" is the default provision under the Plan if no selection is made.*)

## VII. EARNINGS

Earnings, as defined under Section 2.09 of the Plan, shall include:

1. Overtime

Yes       No (*"No" is the default provision under the Plan if no selection is made.*)

2. Bonuses

Yes       No (*"No" is the default provision under the Plan if no selection is made.*)

3. Other Pay (specifically describe any other types of pay to be included below)

\_\_\_\_\_  
\_\_\_\_\_

## VIII. ROLLOVER PROVISIONS

1. The Employer will permit Rollover Contributions in accordance with Section 4.13 of the Plan:

Yes       No (*"Yes" is the default provision under the Plan if no selection is made.*)



**IX. LIMITATION ON ALLOCATIONS**

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Section 5.02 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (e) of the Plan will apply unless another method has been indicated below.

- Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any Excess Amounts, in a manner that precludes Employer discretion.)
- 

2. The Limitation Year is the following 12 consecutive month period: \_\_\_\_\_

**X. VESTING PROVISIONS**

The Employer hereby specifies the following vesting schedule, subject to (1) the Code's vesting requirements in effect on September 1, 1974 and (2) the concurrence of the Plan Administrator. (For the blanks below, enter the applicable percentage – from 0 to 100 (with no entry after the year in which 100% is entered), in ascending order.)

The following vesting schedule may apply to a Participant's interest in his/her Employer Contribution Account. The vesting schedule does not apply to Mandatory Participant Contributions, Rollover Contributions, Voluntary Participant Contributions, Deductible Employee Contributions, Employee Designated Final Pay Contributions, and Employee Designated Accrued Leave Contributions, and the earnings thereon.

<b>Period of Service Completed</b>	<b>Percent Vested</b>
Zero	100 * _____%
One	_____%
Two	_____%
Three	_____%
Four	_____%
Five	_____%
Six	_____%
Seven	_____%
Eight	_____%
Nine	_____%
Ten	_____%

**XI. WITHDRAWALS AND LOANS**

1. In-service distributions are permitted under the Plan after a Participant attains (select one of the below options):
  - Normal Retirement Age
  - Age 70½ ("70½" is the default provision under the Plan if no selection is made.)
  - Alternate age (after Normal Retirement Age): \_\_\_\_\_
  - Not permitted at any age
  
2. A Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services for more than 30 days.
  - Yes                       No    **("Yes" is the default provision under the Plan if no selection is made.)**
  
3. Tax-free distributions of up to \$3,000 for the direct payment of Qualified Health Insurance Premiums for Eligible Retired Public Safety Officers are available under the Plan.
  - Yes                       No    **("No" is the default provision under the Plan if no selection is made.)**
  
4. In-service distributions of the Rollover Account are permitted under the Plan, as provided in Section 9.07.
  - Yes                       No    **("No" is the default provision under the Plan if no selection is made.)**
  
5. Loans are permitted under the Plan, as provided in Article XIII of the Plan:
  - Yes                       No    **("No" is the default provision under the Plan if no selection is made.)**

**XII. SPOUSAL PROTECTION**

The Plan will provide the following level of spousal protection (select one):

- 1. Participant Directed Election. The normal form of payment of benefits under the Plan is a lump sum. The Participant can name any person(s) as the Beneficiary of the Plan, with no spousal consent required.
- 2. Beneficiary Spousal Consent Election (Article XII of the Plan will apply if option 2 is selected). The normal form of payment of benefits under the Plan is a lump sum. Up-on death, the surviving spouse is the Beneficiary, unless he or she consents to the Participant's naming another Beneficiary. **("Beneficiary Spousal Consent Election" is the default provision under the Plan if no selection is made.)**
- 3. QJSA Election (Article XVII). The normal form of payment of benefits under the Plan is a 50% qualified joint and survivor annuity with the spouse (or life annuity, if single). In the event of the Participant's death prior to commencing payments, the spouse will receive an annuity for his or her lifetime. (If option 3 is selected, the spousal consent requirements in Article XII of the Plan also will apply.)

**XIII. FINAL PAY CONTRIBUTIONS**

(Under the Plan’s definitions, Earnings automatically include leave cashouts paid by the later of 2½ months after severance from employment or the end of the calendar year. If the Plan will provide additional contributions based on the Participant’s final paycheck attributable to Accrued Leave, please provide instructions in this section. Otherwise, leave this section blank.)

The Plan will provide for Final Pay Contributions if either 1 or 2 below is selected. The following group of Employees shall be eligible for Final Pay Contributions:

1. Employees within the Covered Employment Classification identified in section V of the Adoption Agreement.

2. Other. \_\_\_\_\_

*(This must be a subset of the Covered Employment Classification identified in section V of the Adoption Agreement.)*

**Final Pay shall be defined as (select one):**

A. Accrued unpaid vacation

B. Accrued unpaid sick leave

C. Accrued unpaid vacation and sick leave

D. Other (insert definition of Final Pay – must be leave that Employee would have been able to use if employment had continued and must be bona fide vacation and/or sick leave):

\_\_\_\_\_

**1. Employer Final Pay Contribution.** The Employer shall contribute on behalf of each Participant \_\_\_\_\_% of their Final Pay to the Plan (subject to the limitations of Article V of the Plan).

**2. Employee Designated Final Pay Contribution.** Each Employee eligible to participate in the Plan shall be given the opportunity at enrollment to irrevocably elect to contribute \_\_\_\_\_% (insert fixed percentage of Final Pay to be contributed) or up to \_\_\_\_\_% (insert maximum percentage of Final Pay to be contributed) of Final Pay to the Plan (subject to the limitations of Article V of the Plan).

Once elected, an Employee’s election shall remain in force and may not be revised or revoked.

**XIV. ACCRUED LEAVE CONTRIBUTIONS**

The Plan will provide for unpaid Accrued Leave Contributions annually if either 1 or 2 is selected below. The following group of Employees shall be eligible for Accrued Leave Contributions:

1. Employees within the Covered Employment Classification identified in section V of the Adoption Agreement.

2. Other. \_\_\_\_\_

*(This must be a subset of the Covered Employment Classification identified in section V of the Adoption Agreement.)*

**Accrued Leave shall be defined as (select one):**

- A. Accrued unpaid vacation
- B. Accrued unpaid sick leave
- C. Accrued unpaid vacation and sick leave
- D. Other (insert definition of Accrued Leave that is bona fide vacation and/or sick leave):  
See attached formula

1. **Employer Accrued Leave Contribution.** The Employer shall contribute as follows (choose one of the following options):

- For each Plan Year, the Employer shall contribute on behalf of each eligible Participant the unused Accrued Leave in excess of 350\* (insert number of  hours  days  weeks (check one)) to the Plan (subject to the limitations of Article V of the Plan).
- For each Plan Year, the Employer shall contribute on behalf of each eligible Participant \_\_\_\_\_% of unused Accrued Leave to the Plan (subject to the limitations of Article V of the Plan).

2. **Employee Designated Accrued Leave Contribution.**

Each eligible Participant shall be given the opportunity at enrollment to irrevocably elect to annually contribute \_\_\_\_\_% (insert fixed percentage of unpaid Accrued Leave to be contributed) or up to \_\_\_\_\_% (insert maximum percentage of unpaid Accrued Leave to be contributed) of Accrued Leave to the Plan (subject to the limitations of Article V of the Plan). Once elected, an Employee's election shall remain in force and may not be revised or revoked.

**XV.** The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

**XVI.** The Employer understands that this Adoption Agreement is to be used with only the MissionSquare Retirement Governmental Money Purchase Plan. This MissionSquare Retirement Governmental Money Purchase Plan is a restatement of a previous plan, which was submitted to the Internal Revenue Service for approval on December 31, 2018 and received approval on June 30, 2020.

The Plan Administrator will inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan. The Employer understands that an amendment(s) made pursuant to Section 14.05 of the Plan will become effective within 30 days of notice of the amendment(s) unless the Employer

notifies the Plan Administrator, in writing, that it disapproves of the amendment(s). If the Employer so disapproves, the Plan Administrator will be under no obligation to act as Administrator under the Plan.

**XVII.** The Employer hereby appoints the ICMA Retirement Corporation, doing business as MissionSquare Retirement, as the Plan Administrator pursuant to the terms and conditions of the MISSIONSQUARE RETIREMENT GOVERNMENTAL MONEY PURCHASE PLAN.

The Employer hereby agrees to the provisions of the Plan.

**XVIII.** The Employer understands that it must complete a new Adoption Agreement upon first adoption of the Plan. Additionally, upon any modifications to a prior election, making of new elections, or restatements of the Plan, a new Adoption Agreement must be completed. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

**XIX.** An adopting Employer may rely on an Opinion Letter issued by the Internal Revenue Service as evidence that the Plan is qualified under section 401 of the Internal Revenue Code only to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter issued with respect to the Plan and in Rev. Proc. 2017-41.

In Witness Whereof, the Employer hereby causes this Money Purchase Plan Adoption Agreement to be executed.

**EMPLOYER SIGNATURE & DATE**

Signature of Authorized Plan Representative: \_\_\_\_\_

Print Name: Jeannine Smith

Title: City Administrator

Attest: \_\_\_\_\_

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_.  
Month Day Year

**For inquiries regarding adoption of the plan, the meaning of plan provisions, or the effect of the Opinion Letter, contact:**

MissionSquare Retirement  
777 N. Capitol St. NE Suite 600  
Washington, DC 20002  
800-326-7272

52582-0621-W1303

**Mission Square Retirement  
401(a) Governmental Money Purchase Plan  
Adoption Agreement**

*CONTRIBUTION PROVISIONS*

Excerpt of 11.2 of MAP CBA dated May 1, 2021 – April 30, 2025: On May 1, 2023, employees with at least seven years of service as a Wilmington Police Officer and who have in excess of three hundred and fifty (350) sick hours will have the cash value of that excess amount deposited into a 401A account that was previously established for the employee (as described in Section 14.8 of this Agreement). Every May 1 thereafter, employees who have at least seven years of service as a Wilmington Police Officer and who have in excess of three hundred and fifty (350) sick leave hours will have the cash value of that excess amount (not to exceed seventy-two (72) hours) deposited into the employee's aforementioned 401A account. The employee's remaining sick leave balance will then be reduced to 350 hours. For example, if an employee on May 1, 2024 has a 401A account established per Section 14.8, and also has 446 accrued sick leave hours in his bank, the employee's sick leave bank will be immediately reduced to 350 hours with the cash equivalent of 72 sick leave hours being deposited into the employee's 401A account.

Section 14.8 401A Plan. Effective May 1, 2023, the City will establish a 401A account for each covered employee who is employed with the City on May 1, 2023. The start-up amounts will be funded on May 1, 2023 by the cash equivalent of the excess sick leave hours described in Section 11.2 of this Agreement. For example, if an employee with at least seven years of service as a Wilmington Police Officer has 960 hours of accrued sick leave on May 1, 2023, the City will establish a 401A account for that employee with the cash equivalent of 610 sick leave hours at the employee's then straight-time hourly rate of pay, and the employee's accrued sick leave bank will then be immediately reduced to 350 hours.

Thereafter, the City will have no obligation (other than what is required by Section 11.2) to contribute any additional City funds into the 401A Plan accounts, and the City will not be liable for any tax implications of employee participation and/or deposits into the 401 Plan. Employee participation and deposits into the 401 A Plan will be governed by the terms and conditions of the 401 A Plan document and Section 11.2 of this Agreement. Any disagreements about the operation of the 401A Plan (beyond the sick leave contributions described in this Agreement) will not be subject to the grievance-arbitration process in this Agreement.