



October 16, 2024

Sent via E-Mail

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Re: Gilbert's Electioneering

Dear Mayor Peterson and Members of the Council:

Gilbert has sent two measures to voters ahead of the November 2024 General Election. The first, Proposition 497, is a permanent base adjustment to Gilbert's state-imposed expenditure limit. The second, Proposition 498, would exclude capital improvement projects from the expenditure limit. Gilbert has been engaging in a campaign on social media—including through the Instagram handle “@gilbertyourtown”—and through mailers in advance of the election with the ostensible purpose of “informing” voters. This campaign, however, has crossed the line from information to advocacy.

As you likely know, Arizona law prohibits the use of public resources for the purpose of influencing the outcomes of elections. *See* A.R.S. § 9-500.14. Section 9-500.14 defines resources to include “the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, *telecommunications, computer hardware* and software, *web pages, personnel*, equipment, materials, buildings or any other thing of value of the city or town.” (emphasis added). “[I]nfluenc[e] the outcomes of elections” means “supporting or opposing a ballot measure, question or proposition ... in any manner that is *not impartial or neutral*.” *Id* (emphasis added).

Both the videos that Gilbert has created and posted to its social media sites and the recent mailer sent to Gilbert voters are neither impartial nor neutral. For example, the most recent social media video posted on October 2, 2024, and “pinned”¹ to the top of the feed, attempts to influence

¹ Pinned posts remain at the top of a profile to ensure they are the first things visitors see when they view your profile.

voters to approve the propositions by showing voters how long it has been since the last base adjustment in 1998. It does this by including clips of what was occurring in 1998—the launch of the International Space Station, the launch of Google, and Brittany Spears’s debut album. The video’s use of clips from 1998 are intended to give voters the impression of just how long ago 1998 was, implying that passage of an expenditure increase is needed. It then goes on to describe how much Gilbert has grown, including the addition of two new public libraries, three new pools, eight new parks, eleven new fire stations and all the “upgrades” Gilbert has done to roads, critical infrastructure, the water treatment plant and “so much more.” After telling voters they could vote “no” the video goes on to list the negatives—and *only* the negatives—of voting no on the measures, like the inability to fund certain projects and delayed repairs. The video does not present any argument against the propositions. There is no mention of the benefits that will result from voting “no” on the measures. This video is neither impartial nor neutral and is therefore prohibited electioneering.

This is not the only offending video. Another, posted to Instagram on June 5, 2024, also advocates for the passage of both propositions. This video focuses on the benefits of passing both propositions, but none of the benefits of voting against the propositions. This video received a public comment asking where they can find the “cons” and Gilbert responded that more information about pro/con statements would be forthcoming—a tacit admission that the video did not contain a “con” argument. Exhibit 1.

Gilbert’s electioneering activities have not been limited to social media; the Town has also spent resources sending mailers to Gilbert voters. A recent mailer is attached as Exhibit 2 and exemplifies this electioneering. The mailer, like the videos, includes a list of all the good things Gilbert has done since 1998, and all the benefits of voting yes, including “more local control over Town spending” and avoiding “interest and repayment costs associated with bonding.” It then ends with the *negatives* of voting no without addressing the positives of rejecting the propositions. Again, like the video, the mailer is neither impartial nor neutral.

The Attorney General released an opinion in 2015 interpreting Section 9-500.14. The opinion explained that for a measure to be impartial and neutral it must be free from any misleading tendency, whether amplification, omission, or fallacy, and rhetorical strategy should not be used.² Both posts fail under this analysis.

In light of this, under Section 9-500.14(E), we have asked the County Attorney to further investigate use of these public resources as a potential violation of A.R.S. § 9-500.14.

We appreciate your prompt and thoughtful consideration of these matters and look forward to receiving confirmation that Gilbert will remove the electioneering videos and cease the use of mailers that advocate for the passage of these prohibitions.

Should you have any questions regarding this matter, please do not hesitate to contact me directly at ashelton@goldwaterinstitute.org or 602-462-5000.

² https://www.azag.gov/sites/default/files/2018-06/R15-002_Amended.pdf.

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Regards,



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Exhibit 1

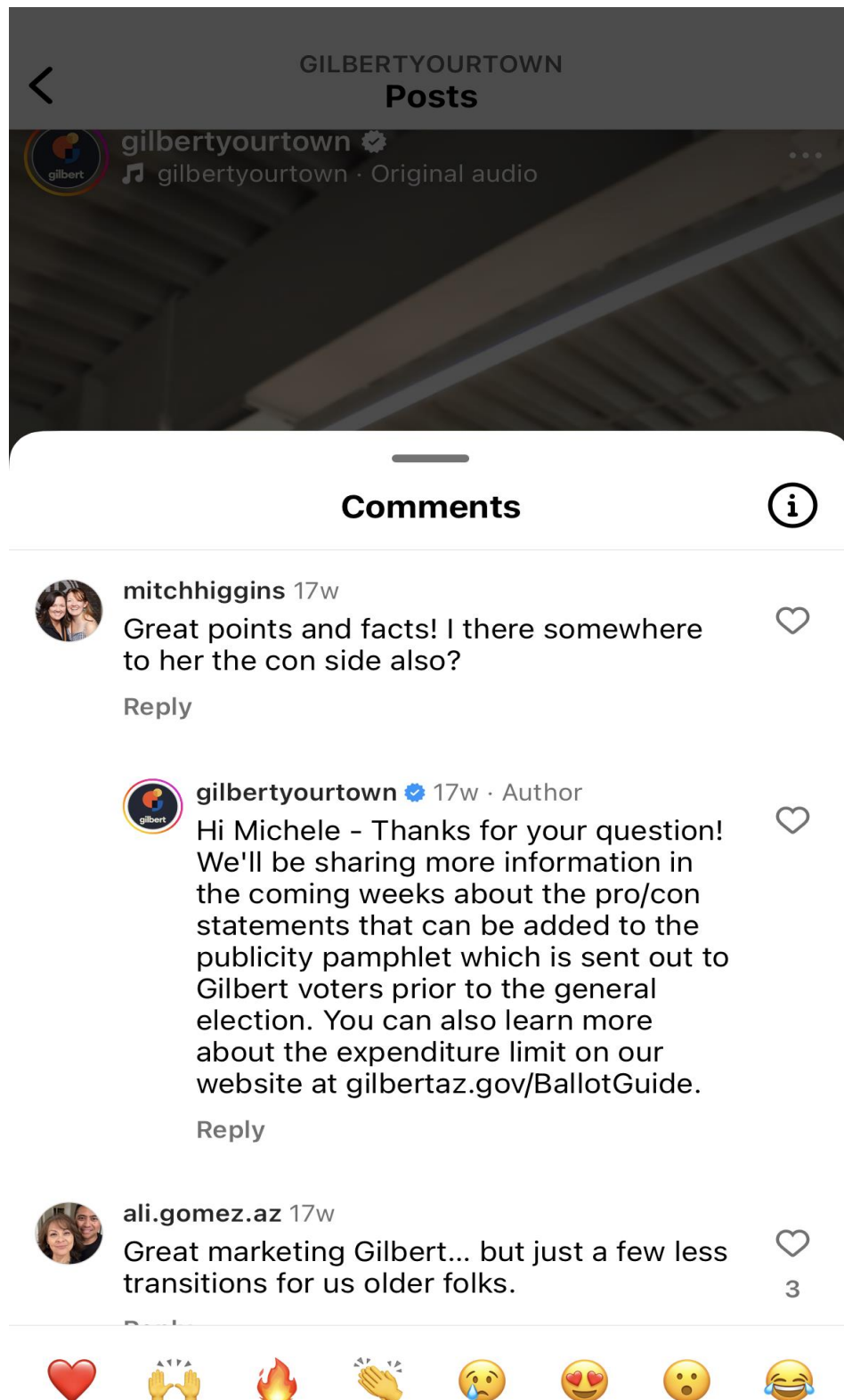


EXHIBIT 2

Gilbert Voters... What's on your November Ballot?



During the General Election on November 5, 2024, Gilbert voters will decide whether to approve two questions on the ballot related to the state-imposed expenditure limit:

Prop 497 Permanent Base Adjustment

Prop 498 Capital Projects Accumulation Fund

Arizona sets a limit for how much local cities and towns are allowed to spend regardless of the revenues received. Gilbert's spending cap was last adjusted in 1998. Since then, new parks, public safety resources, libraries, and pools have been added to our community.

If voters approve changes to the limit, the adjustment will allow for more local control over Town spending, and avoids interest and repayment costs associated with bonding.

Voting no on these two ballot items keeps the current limit in place. Gilbert would then consider its funding options for projects, without exceeding the limit, which could include delaying repairs or infrastructure projects, or using bonds.

LEARN MORE
gilbertaz.gov/BallotGuide



Los votantes de Gilbert... ¿Qué contiene tu boleta electoral?

Durante la Elección General del 5 de noviembre de 2024, los votantes de Gilbert decidirán si aprueban dos cuestiones en la boleta electoral relacionadas con el límite de gastos impuesto por el estado:

Prop 497 Ajuste Permanente a la Base

Prop 498 Fondo de Acumulación de Proyectos de Capital

Arizona establece un límite a la cantidad que las ciudades y los pueblos locales pueden gastar independientemente de los ingresos recibidos. El límite de gastos de Gilbert se ajustó por última vez en 1998. Desde entonces, se han agregado a nuestra comunidad nuevos parques, recursos de seguridad pública, bibliotecas, y albercas.

Si los votantes aprueban cambios al límite, el ajuste permitirá mayor control local sobre los gastos del Pueblo y evita costos de intereses y pagos asociados con la emisión de bonos.

Votar no a estos dos artículos en la boleta electoral mantiene el límite actual. Gilbert entonces consideraría sus opciones de financiación para los proyectos, sin exceder el límite. Las opciones podrían incluir retrasar las reparaciones o los proyectos de infraestructura o el uso de bonos.

MÁS INFORMACIÓN
gilbertaz.gov/GuiaElectoral

