

Village of Gilberts

Village Hall: 87 Galligan Road, Gilberts, Illinois 60136

Ph. 847-428-2861 Fax: 847-428-2955

www.villageofgilberts.com

VILLAGE BOARD MEETING AGENDA

Tuesday July 17, 2018 - 7:00 p.m. - Village Hall Board Room

ORDER OF BUSINESS

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

2. ROLL CALL / ESTABLISH QUORUM

3. PUBLIC COMMENT*

Intended for public comment on issues not otherwise on this agenda, those comments offered when individual issues are discussed

4. APPOINTMENTS

5. CONSENT AGENDA

- A. A Motion to approve Minutes from the July 10, 2018 Village Board Meeting.
- B. A Motion to approve the June 2018 Treasurer's Report.
- C. A Motion to approve Bills & Payroll dated July 13, 2018.
- D. A Motion to approve Resolution 13-2018 authorizing the appointment of Taunya Fischer as the authorized agent for the Illinois Municipal Retirement Fund Program on behalf of the Village of Gilberts.
- E. A motion to approve Ordinance 12-2018 Amending the Village Code Regarding Small Cell Wireless Facilities.

6. ITEMS FOR APPROVAL

- A. A Motion to approve Resolution 13-2018 Waiving Competitive Bidding and Approving a Contract with Phoenix & Associates to Design and Construct the Industrial Park Roadway and Drainage Improvements.
- B. A motion to approve Resolution 14-2018 further amending and replacing in its entirety Resolution 11-2018 authorizing and approving the release of a limited number of building permits for Phase 2A1 of the Conservancy Development.

7. ITEMS FOR DISCUSSION

- A. Community Days Report.

8. OTHER BUSINESS

9. STAFF REPORTS

10. TRUSTEES' REPORTS

11. PRESIDENTS' REPORT

12. EXECUTIVE SESSION*

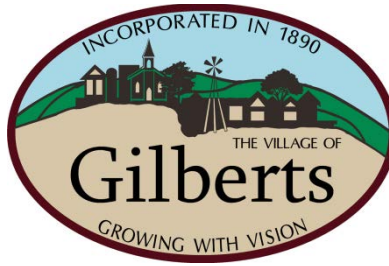
13. ADJOURNMENT

***Executive Session Information**

A portion of the meeting will be closed to the Public, effective immediately as Permitted by 5 ILCS 120/2(c) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Village, and as permitted by 5 ILCS 120/2 (c) (11) to discuss litigation against, affecting, or on behalf of the Village which has been filed and is pending in a court or administrative tribunal of which is imminent and as permitted by 5 ILCS 120/2(c) (21) to review and approve closed session minutes and as permitted by 5 ILCS 120/2 (c) 2 Collective negotiating matters.

***Public Comment Policy**

Anyone indicating a desire to speak during Public Comments portion of the Village Board Meeting will be acknowledged by the Village President. All remarks are to be addressed to the Village President and Board of Trustees as a whole, not to any specific person(s). To ensure that everyone who wishes to speak has the opportunity to do so, please limit your comments to five minutes. Additional time may be granted at the discretion of the Village President. If you have written comments, please provide a copy to the Village President. If there are a number of individuals present to speak on the same topic, please designate a spokesperson that can summarize the issue. During Public Comments, the Village President, Trustees and Staff will listen to comments and will not engage in discussion. The Village President or Trustees may ask questions to better understand your concern, suggestion or request. Please direct any personnel concerns to the Village Administrator before or after the meeting. The Village of Gilberts complies with the Americans Disabilities Act (ADA). For accessibility Assistance, please contact the Village Clerk at the Village Hall, telephone number is 847-428-2861". Assistive services will be provided upon request.



**MINUTES FOR VILLAGE OF GILBERTS
BOARD OF TRUSTEES MEETING
Village Hall: 87 Galligan Road, Gilberts, IL 60136
Meeting Minutes
Monday, June 26, 2018**

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

President Zirk called the meeting to order at 7:00 p.m. He proceeded to lead those present in the Pledge of Allegiance.

2. ROLL CALL / ESTABLISH QUORUM

Village Clerk Courtney Nicholas called the roll. Roll call: Members present: Trustees Kojzarek, Corbett, Allen, Zambetti, Farrell, Hacker, and President Zirk. Others present: Interim Village Administrator Anne Marie Gaura, Village Attorney Julie Tappendorf, Finance Director Taunya Fischer, Chief Building Inspector and Public Works Coordinator John Swedberg.

3. PUBLIC COMMENT

Steve Maren, a resident of Gilberts, stated that a plumber has come out to his home and asked why he doesn't have another meter for his landscaping water sprinkler system. President Zirk stated that this is something that the Village has done for industrial properties, but for residential properties, this is left to the homeowner to have done. Public Works Coordinator Swedberg advised that he would be willing to work with this resident on assisting him in this process.

4. APPOINTMENTS

- A. President Zirk's appointment of Brian Bourdeau as Village Administrator and to approve an Employment Agreement for a term of July 11, 2018 through April 30, 2021. (Swearing In).

A Motion was made by Trustee Corbett and seconded by Trustee Allen to concur with President Zirk's appointment of Brian Bourdeau as Village Administrator. Roll call vote: Trustees Corbett, Allen, Zambetti, Farrell, Hacker, Kojzarek voted Aye. 0-nays, 0-abstained. Motion carried.

5. CONSENT AGENDA

- A. A Motion to approve Minutes from the June 26th, 2018 Village Board Meeting
B. A Motion to approve Bills & Payroll dated July 6, 2018.

President Zirk asked if any of the Board Members wished to remove any item listed on the Consent Agenda for separate consideration. The Board Members offered no comments.

A Motion was made by Trustee Kojzarek and seconded by Trustee Corbett to Approve the Consent Agenda Items A-B as presented. Roll call vote: Trustees Allen, Zambetti, Farrell, Hacker, Kojzarek, Corbett voted Aye. 0-nays, 0-abstained. Motion carried.

6. ITEMS FOR APPROVAL

- A. Ordinance 11-2018 Amending Ordinance No. 09-19 Regarding the Designation of Freedom of Information Act (FOIA) Officers. – Interim Village Administrator advised that this amendment is removing the specific name of the previous Village Clerk as well as adding the Deputy Clerk as an approved FOIA officer.

A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve Ordinance 11-2018 Amending Ordinance No. 09-19 Regarding the Designation of Freedom of Information Act (FOIA) Officers. Roll call vote: Trustees Zambetti, Farrell, Hacker, Kojzarek, Corbett, Allen voted Aye. 0-nays, 0-abstained. Motion carried.

7. ITEMS FOR DISCUSSION

- A. Small Cell Wireless Ordinance – Village Attorney Tappendorf advised that the General Assembly passed a Small Cell Wireless act several months ago that restricts how municipalities can permit, regulate and restrict the small wireless facilities. This law gave municipalities until August 1st to adopt regulations to charge the facilities and require them to go through a permit process if the pole is Village owned. Village Attorney Tappendorf also advised that the model of this ordinance that was drafted for the Village of Gilberts is very similar to other municipalities. President Zirk stated that this item will be placed on the Consent Agenda to be considered for approval at the next Village Board Meeting.
- B. Smoking in Village Parks – Village Attorney Tappendorf advised that the Village does have the authority to restrict smoking in Village owned parks. She also stated that if the Board wants to prohibit smoking, the Village would need to amend the Village Code. Trustee Zambetti expressed his concern for going forward with this ordinance due to the uncertainty of how exactly the Village will enforce it and to what degree the Village should restrict smoking. Trustee Kojzarek and Trustee Farrell stated that they were curious on how other communities have handled non-smoking ordinances and would like to have that information prior to the Village making a decision. Interim Village Administrative Gaura advised that the staff should have this data ready for a meeting in August to present to the Board. Meg Fischer, a Village of Gilberts resident, addressed the Board and stated that there are many park districts and municipalities that have already enacted non-smoking ordinances in parks. Fischer also said that it would be helpful to refer to a no-smoking sign in a Village park if need be. President Zirk advised that the Board will hear the data that the Village staff will collect in a Board meeting in August and discuss this further at that time.

Farm Animals and Horse Options – At the last Village Board meeting, Public Works Coordinator Swedberg reported on an issue relating to the keeping of horses on property in the Village. Currently, the UDO allows the keeping of farm animals and private stables as permitted uses in the A-1 Agriculture District. However, section 5-2-3B of the Village Code prohibits the keeping of livestock, including horses, on any property in the Village. The Village Board asked that staff conduct a survey of properties zoned in the A-1 district. The Board also asked Village Attorney Tappendorf for a summary of its options in amending the Village Code or UDO as appropriate to bring these ordinances into consistency with one another. Village Attorney Tappendorf presented the three options which were Ban Farm Animals and Horses Throughout the Village, Allow Farm Animals and Horses in the A-1 District, and Allow Farm Animals and Horses in the A-1 District With Lot Acreage Requirements. Public Works Coordinator Swedberg advised that Jesus Alvarado is a property owner in who had recently requested permission to have horses on their farm. The Alvarado's have an A-1 property that is 5.45 acres. Trustee Zambetti suggested that we provide Jesus Alvarado with a Special Use permission to allow for the keeping of their horses. Village Attorney Tappendorf advised that that would entail amending the Village code to remove the prohibition and then move the two uses to the Permitted section to the Special Use section. Tappendorf also advised that this will require a Zoning Meeting with the Plan Commission and to advise the property owner to submit an application for Special Use. Maria Ramos, one of the owners of the Alvarado property, inquired about the Village Code relating to Animals at Large and was provided clarification by Village Attorney Tappendorf. Maria Ramos and Jesus Alvarado were concerned on the length of time this process would take because they had planned on building a structure for the horses in August. Trustee Zambetti advised that there is no reason why the property owners can't bring their structure proposal to the Village's building department for a permit and start building it once approved.

8. OTHER BUSINESS

There were no items to discuss at this time.

9. STAFF REPORTS

- A. Interim Village Administrator Gaura reported that she is currently working on the transition of Brian Bourdeau learning his role as the Village Administrator.
- B. Village Attorney Tappendorf provided an update on Special Service Area bonds and that there will a conference call meeting next week. Another update was that she had spoken to Robinson Engineering regarding the roadway on Industrial Drive project and there will be more information presented in the first meeting in August. Tappendorf also stated that she was in contact with DR Horton's lawyer regarding the duplex project. DR Horton had submitted elevations that previous Village Administrator, George Sakas, did not approve of because the plans did not conform to the annexation agreement. Attorney Tappendorf advised the DR Horton lawyer that their options are to change the plans to comply, apply for amendments or appeal the decision.

C. Public Works Coordinator Swedberg reported that public works has cleaned out Hennessy Bridge from tree debris.

10. STAFF REPORTS

The trustees had no report.

11. PRESIDENT'S REPORTS

President Zirk reported that the Village has put more pressure on the AirBnB in town. The AirBnB had said that they were going to discontinue use but have now increased use. Public Works Coordinator Swedberg had advised the owners of this property that they have until the 8th to stop renting out the home and they have not stopped. Public Works Coordinator Swedberg has contacted the Village's prosecutor in regards to issuing the property owners a citation.

12. EXECUTIVE SESSION*

An executive session did not take place.

13. ADJOURNMENT

There being no further public business to discuss, **a Motion was made by Trustee Allen and seconded by Trustee Farrell to adjourn from the public meeting at 8:26 p.m.** Voice vote carried unanimously.

Respectfully submitted,

Courtney Nicholas

Courtney Nicholas
Village Clerk

**MONTHLY TREASURER'S REPORT
FOR JUNE 2018**

General Fund

Union National Bank Money Market/Checking	\$	884,172.14	
Illinois Funds Money Market	\$	3,289,796.16	
Barrington Bank Certificate of Deposit	\$	1,511,848.93	
			\$ 5,685,817.23

Enterprise Fund

Union National Bank Money Market/Checking	\$	374,020.14	
Illinois Funds Money Market	\$	2,049,534.06	
Barrington Bank Money Market	\$	58,576.45	
Barrington Bank Certificate of Deposit	\$	504,317.38	
Union National Bank Certificates of Deposit	\$	1,212,102.24	
			\$ 4,198,550.27

Motor Fuel Tax

Union National Bank Money Market/Checking	\$	57,260.10	
Illinois Funds Money Market	\$	782,123.22	
			\$ 839,383.32

Performance Bond

Union National Bank Money Market/Checking	\$	25,646.68	
Illinois Funds Money Market	\$	212,508.67	
			\$ 238,155.35

TIF #1

Union National Bank Money Market/Checking	\$	131,311.23	
			\$ 131,311.23

TIF #2

Union National Bank Money Market/Checking	\$	137,656.82	
			\$ 137,656.82

PD Drug Forfeiture

Union National Bank Money Market/Checking	\$	16,298.01	
			\$ 16,298.01

TOTAL ALL FUNDS	\$	11,247,172.23
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Finance Director's signature

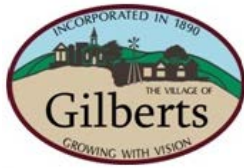
7/12/2018

Date

GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund 01 GENERAL FUND					
Dept 01 ADMINISTRATIVE					
01-01-5070-FDIR	DUES	IL MUNICIPAL TREASURERS	IMTA MEMBERSHIP - T FISCHER	70.00	
01-01-5190	RENTAL-EQUIPMENT	PITNEY BOWES	POSTAGE MACHINE	165.00	
01-01-5360	ENGINEERING SERVICES	BAXTER & WOODMAN, INC.	PROJECT 050894.60 TOWN CENTER UNIT 2B	5,192.15	
01-01-5360	ENGINEERING SERVICES	BAXTER & WOODMAN, INC.	PROJECT 060889.60 CONSERVANCY POD 4 C	776.70	
01-01-5360	ENGINEERING SERVICES	BAXTER & WOODMAN, INC.	PROJECT 130664.60 CONSERVANCY POA 4 N	532.50	
01-01-5360	ENGINEERING SERVICES	BAXTER & WOODMAN, INC.	PROJECT 130664.60 CONSERVANCY POD 4 N	1,319.73	
01-01-5360	ENGINEERING SERVICES	BAXTER & WOODMAN, INC.	PROJECT 130664.80 CONSERVANCY POD 4 N	1,485.00	
01-01-5450	CONTRACTUAL SERVICES	GOVTEMPS USA	AM GAURA & C HOWARD WEEKS 06/24 & 07/	11,534.26	
		Total For Dept 01 ADMINISTRATIVE		21,075.34	
Dept 02 POLICE					
01-02-5200	OFFICE SUPPLIES	STAPLES ADVANTAGE	PAPER, TONER BATTERIES	146.98	
		Total For Dept 02 POLICE		146.98	
Dept 03 PUBLIC WORKS					
01-03-5390	MAINTENANCE VEHICLES	BATTERIES PLUS	BATTERIES	215.90	
01-03-5400	MAINTENANCE EQUIPMENT	B&K POWER EQUIPMENT INC	MOWER REPAIRS	304.79	
01-03-5400	MAINTENANCE EQUIPMENT	CLARKE ENVIRONMENTAL MOS	MOSQUITO SPRAYING	1,895.00	
01-03-5450	CONTRACTUAL SERVICES	CANTEEN REFRESHMENT SERV	WATER	17.34	
		Total For Dept 03 PUBLIC WORKS		2,433.03	
Dept 06 PARKS					
01-06-5400	MAINTENANCE EQUIPMENT	MENARDS - CARPENTERSVILL	PLUMBING CLAMPS	11.98	
		Total For Dept 06 PARKS		11.98	
		Total For Fund 01 GENERAL FUND		23,667.33	
Fund 20 WATER SYSTEM					
Dept 10 WATER SYSTEMS					
20-10-5070	DUES	FOX VALLEY OPERATOR'S AS	DUES 5 MEMBERS	50.00	
20-10-5180	SMALL TOOLS AND EQUIPMENT	R.A. ADAMS ENTERPRISES,	TOMMY LIFT GATE	1,741.62	
20-10-5262	LAB SUPPLIES	HACH COMPANY	FLUORIDE	165.11	
20-10-5281	CHEMICALS	VIKING CHEMICAL CO	CHLORINE / SODIUM HYPOCHLORITE SOLUTI	1,178.00	
20-10-5281	CHEMICALS	VIKING CHEMICAL CO	DEPOSIT RETURN	(730.00)	
20-10-5290	LABORATORY EQUIPMENT	MACCABB, INC.	ACETYLENE / WELDING CAR/ HEADGEAR AND	457.90	
20-10-5450	CONTRACTUAL SERVICES	MARCO TECHNOLOGIES LLC	COPIER B/W COLOR	5.93	
20-10-5520	LABORATORY TESTING	PDC LABORATORIES, INC	GILBERTS SEMI ANNUAL LAND APP	185.00	
20-10-5520	LABORATORY TESTING	PDC LABORATORIES, INC	GILBERTS SEMI ANNUAL LAND APP	185.00	
20-10-5520	GAS	NICOR	281 RAYMOND 4/18 - 6/18	22.59	
20-10-5710-WTRP	ELECTRIC	CONSTELLATION NEWENERGY,	SLEEPING BEAR 5/16 - 6/15	51.63	
20-10-5720-SBWT	ELECTRIC	CONSTELLATION NEWENERGY,	GALLIGAN WATER TOWER 05/16 - 6/15	140.08	
20-10-5720-TWR3					
		Total For Dept 10 WATER SYSTEMS		3,452.86	
Dept 20 WASTEWATER SYSTEMS					
20-20-5180	SMALL TOOLS AND EQUIPMENT	MENARDS - CARPENTERSVILL	STRAP HINGE / TOLL CAB	576.78	
20-20-5180	SMALL TOOLS AND EQUIPMENT	R.A. ADAMS ENTERPRISES,	TOMMY LIFT GATE	1,741.62	
20-20-5251	NPDES PERMITS	IEPA FISCAL SERVICES SEC	ANNUAL NPDES FEE	17,500.00	
20-20-5290	LABORATORY EQUIPMENT	MACCABB, INC.	ACETYLENE / WELDING CAR/ HEADGEAR AND	457.89	
20-20-5301	MAINT SUPPLIES-JANITORIAL	MENARDS - CARPENTERSVILL	GROUNDCLCAR CONC 2 GAL	34.99	
20-20-5360	ENGINEERING SERVICES	ROBINSON ENGINEERING, LT	PROJECT 17-R0406 WATER SYSTEM ANALYSI	7,974.00	
20-20-5381	MAINTENANCE PARTS & MATERIALS	MENARDS - CARPENTERSVILL	GOGGLE / SCOUR PADS	98.70	
20-20-5381	MAINTENANCE PARTS & MATERIALS	UNDERGROUND PIPE & VALVE	MJ CAP / MEGA LUG BLACK GLAND / GASKE	67.00	
20-20-5410	MAINTENANCE BUILDING	MENARDS - CARPENTERSVILL	AC UNIT / MISC ITEMS	422.10	

GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund 20 WATER SYSTEM					
Dept 20 WASTEWATER SYSTEMS					
20-20-5410	MAINTENANCE BUILDING	MENARDS - CARPENTERSVILL	RETURN OF AC UNIT	(389.99)	
20-20-5410	MAINTENANCE BUILDING	MENARDS - CARPENTERSVILL	WINDOW AC UNIT	299.00	
20-20-5450	CONTRACTUAL SERVICES	ADVANCED AUTOMATION AND	WELL ALTERNATION	230.00	
20-20-5450	CONTRACTUAL SERVICES	MARCO TECHNOLOGIES LLC	COPIER B/W COLOR	5.93	
20-20-5520	LABORATORY TESTING	SUBURBAN LABORATORIES	BOD / CARB BOD / FECAL / TOT SUSP SOL	105.00	
20-20-5520	LABORATORY TESTING	SUBURBAN LABORATORIES	WATER TESTING	105.00	
20-20-5520	LABORATORY TESTING	SUBURBAN LABORATORIES	BOD / CARB BOD/ FECAL / TOT SUSP SOLI	105.00	
20-20-5520	LABORATORY TESTING	SUBURBAN LABORATORIES	AMMONIA / AQUEOUS PREP / BOD / METALS	370.00	
20-20-5520	LABORATORY TESTING	SUBURBAN LABORATORIES	WATER TESTING	236.00	
20-20-5580	TRAINING EXPENSE	FOX VALLEY OPERATOR'S AS	DUES 5 MEMBERS	50.00	
20-20-5602	REPAIRS-W/WATER COLLECTION SYS.	BENCHMARK SALES & SERVIC	SERV TO BRANSIK	550.00	
20-20-5602	REPAIRS-W/WATER COLLECTION SYS.	BENCHMARK SALES & SERVIC	SERV TO GLACIAL PKWAY LS	550.00	
20-20-5660	COLLECTION SYS. PUMP MAINT.	STEINER ELECTRIC CO	600 V IND FUSE	75.60	
20-20-5710-STLS	GAS	NICOR	SILVER TRAIL PKWY 5/21/621	101.59	
20-20-5710-VALS	GAS	NICOR	VALENCIA 5/21 - 6/21	31.06	
20-20-5720-BRLS	ELECTRIC	CONSTELLATION NEWENERGY,	201 RAYMOND 5/16-6/15	81.44	
Total For Dept 20 WASTEWATER SYSTEMS				31,378.71	
Total For Fund 20 WATER SYSTEM				34,831.57	

GL Number	Invoice Line Desc	Vendor	Invoice Description	Amount	Check #
Fund Totals:					
			Fund 01 GENERAL FUND	23,667.33	
			Fund 20 WATER SYSTEM	34,831.57	
			Total For All Funds:	58,498.90	



Village of Gilberts
Village Hall
87 Galligan Road, Gilberts, Illinois 60136
Ph. 847-428-2861 Fax: 847-428-2955
www.villageofgilberts.com

Memorandum

TO: President Rick Zirk & the Village Board of Trustees
CC: Brian Bourdeau, Village Administrator
FROM: Taunya Fischer, Finance Director
DATE: July 12, 2018 for July 17, 2018 Board Meeting
SUBJECT: Resolution for IMRF Authorized Agent

Due to the recent personnel changes, the Village Board needs to appoint a new Illinois Municipal Retirement Fund (IMRF) Authorized Agent. This typically has been the Finance Director's responsibility.

The role of the IMRF Authorized Agent is the following:

- 1) Key person in administering the IMRF benefit program.
- 2) Read and distribute reminders, memos and employer digest, provided by IMRF.
- 3) Primary contact with the IMRF Field Representative.
- 4) Establish web assistants and security administrator.

I would like to recommend the Board appoint Taunya Fischer as the Village's IMRF Authorized Agent.

**RESOLUTION
VILLAGE OF GILBERTS**

A Resolution authorizing the appointment of Taunya Fischer as the authorized agent for the Illinois Municipal Retirement Fund Program on behalf of the Village of Gilberts

WHEREAS, the Village of Gilberts is an Illinois municipal corporation; and

WHEREAS, the Village of Gilberts participates in the Illinois Municipal Retirement Fund Program (IMRF) for municipal employees; and

WHEREAS, said participation requires the Village of Gilberts to designate an authorized agent, empowered to conduct IMRF business on behalf of the Village; now

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois as follows:

Section 1. That commencing July 17, 2018, the Board of Trustees of the Village of Gilberts, Illinois, designate Finance Director Taunya Fischer to serve as the Village's authorized agent for the Illinois Municipal Retirement Fund Program, and to conduct such business as authorized by the State of Illinois Statutes and Village of Gilberts Ordinance, and any rules and regulations pursuant to same, on behalf of the Village of Gilberts.

Section 2. This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this ____ day of _____ 2018.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Elissa Kojzarek	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Jeanne Allen	_____	_____	_____	_____
Trustee Lou Hacker	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS ____ DAY OF _____, 2018

Village President, Rick Zirk

(SEAL)

ATTEST: _____

Village Clerk, Courtney Nicholas

Published: _____



DIAMOND BUSH
DiCIANNI
& KRAFTHEFER

A Professional Corporation
140 South Dearborn Street, Suite 600
Chicago, IL 60603
www.ancelglink.com

Julie A. Tappendorf
jtappendorf@ancelglink.com
(P) 312.604.9182
(F) 312.782.0943

MEMORANDUM

To: President Zirk and Board of Trustees

CC: Anne Marie Gaura, Interim Village Administrator

From: Julie A. Tappendorf

Subject: Small Cell Wireless Ordinance

Date: July 3, 2018

On June 1, 2018, the Small Wireless Facilities Deployment Act (“*Act*”) became effective. As a result, the power for municipalities to control the attachment of “small cell” antennas to right-of-way infrastructure, and the installation of new infrastructure to support small wireless facilities, will be limited. However, the Act does authorize municipalities to enact local regulations on small cell wireless facilities by August 1, 2018. We have put together a draft ordinance incorporating regulations that are authorized by state law. This memorandum summarizes the changes to your existing right-of-way management regulations which are incorporated into the attached draft ordinance.

Definitions. The added definitions are taken from the terms defined in the Act. We want to highlight a few that are important for the implementation and enforcement of the new rules.

Historic District/Historic Landmark. This term requires the district or landmark to be formally designated pursuant to State or federal program guidelines. A community cannot simply designate an area or property as “historic” for the purpose of frustrating the ability for wireless providers to install small wireless facilities. Nonetheless, when a property or district is granted this designation, your community can enforce strong rules to protect the intrinsic characteristics of the property or district.

Small Wireless Facility. This definition also serves to regulate the maximum size of a small cell antenna installation. Municipal regulations may not require small wireless facilities to be smaller than the dimensions described in this definition, but wireless providers do not enjoy the benefits of the Act if they elect to make a facility larger than the size described.

Permits Required; Application and Fees. Even though the Act deems small wireless facilities as permitted uses in the right-of-way and in areas zoning exclusively for commercial or industrial uses, it does not take away your right to demand a permit application and to review plans. However, when a wireless provider wants to perform routine maintenance, replace an existing small wireless facility with a substantially similar substitute, or install micro wireless facilities,

July 3, 2018

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no permit or application may be required so long as the wireless provider gives you 10 days prior notice.

The Act permits the community to require specific application materials as part of a complete permit application. Importantly, you may require a site specific structural analysis and engineering drawing for each proposed small wireless facility covered by the application that has been prepared and stamped by a licensed engineer. The plans must demonstrate that the utility pole or municipally-owned infrastructure is safely capable of supporting the small wireless facility in all reasonably foreseeable weather conditions without creating a risk to public health and safety.

The Act limits the amount of permit fees that the community may charge depending on the number of small wireless facilities combined in one application and whether a new pole is required. A wireless provider may combine up to 25 small wireless facilities in one application, but you may accept or deny each location separately.

Action on Permit Application. Much like with large-scale cellular installations, the Act creates a shot clock for how long you may review an application. The Act expresses that an application to collocate a small wireless facility on an existing pole will be **deemed approved** if no action is taken within 90 days from when it is submitted. The deadline is extended to 120 days for new poles. It is very important to promptly determine if each application is complete because the community may toll the shot clock only if it gives notice to the applicant within the first 30 days that the application is incomplete. The shot clock is then extended for so long as it takes for the applicant to supplement the application.

If your permit officer determines the application should be denied, the decision must be communicated to the applicant in writing with citations to the specific code requirements that the application fails to satisfy. A denied application may be resubmitted, in response to which the community must make a decision within only 30 days.

Effect of Permit. A permit to install a small wireless facility is only valid for 180 days, after which it shall expire and the applicant must start from scratch. Permits must grant authority for the small wireless facility for not less than five years.

Annual Recurring Rates for Small Wireless Facilities. In the event the applicant wants to install a small wireless facility on municipally-owned infrastructure (e.g. light pole), the community may charge rent at a rate no greater than \$200 per year. The rent may be higher only if the municipality can demonstrate its actual, direct and reasonable costs for hosting the equipment. The statute does contain a provision which avoids the nullification of any existing pole attachment agreement which provides for other rate schedules, but only for facilities which are installed before the second anniversary of the effective date of the Act.

Public Safety and Traffic Control. The Act protects the operation of wireless dispatch radios and allows the municipality to order the wireless provider to eliminate any unacceptable

July 3, 2018

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interference. Because the wireless radio spectrum is closely regulated by the FCC, it is unlikely that such interference will occur, but if it does the public safety system is given first priority.

Location of Facilities. It is in this section of the amended ordinance where the community may exercise its greatest control over small wireless facilities. Unfortunately, you may not require the placement of small wireless facilities on a particular utility pole. However, should the application necessitate the installation of a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing support structure within 100 feet of the proposed collocation.

To qualify as a small wireless facility, the new antenna attachment may be no greater than 10 feet above the height of the pole to which it is attached. New poles may not exceed 45 feet in height or 10 feet taller than the height of the tallest existing pole located within 300 feet along the same road, whichever is higher.

It is very important to recognize that the Act grants authority to apply generally applicable design and appearance standards to facilities located in the right-of-way. As a result, we have incorporated into the ordinance special aesthetic regulations for three categories of neighborhoods in the community: (1) residential zones, (2) areas identified in your planning or economic development ordinances as having special aesthetic or economic significance to the community, and (3) historic districts and landmarks. The ordinance also contains images that are intended to be examples of small wireless facilities that have implemented a stealth or camouflage design. While the Act allows you to enforce this type of design, the rule must be balanced with the permitted dimensions for a small wireless facility (6 cubic feet in volume). Therefore, you could create incentives for the use of stealth or camouflage designs by granting administrative height variances in consideration for the diminished aesthetic impact. Furthermore, if an existing pole has been erected with a design intended to conceal the appearance of an attachment in accordance with the Village's written design standards, a new small wireless facility may not be attached in a way which defeats the concealment.

Removal, Relocation or Modification. The Act provides for special rules applicable to the removal of abandoned small wireless facilities which have been incorporated into the amendments. A small wireless facility shall be deemed abandoned if it is not operated for a continuous period of 12 months. Once it is deemed abandoned, it must be removed within 180 days.

Variances. The Act emphasizes the availability of variance procedures to avoid the strict enforcement of your rules in a way which would result in a *de facto* denial, even where the rules do not represent a ban on the facilities. Because the state has declared that small wireless facilities are a permitted and intended use of the right-of-way, you will develop a better relationship with wireless providers, and perhaps receive more cooperation in return, if you administer your rules as a partner rather than an enemy combatant.

ANCEL, GLINK, DIAMOND, BUSH, DICIANNI & KRAFTHEFER, P.C.

July 3, 2018

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ZONING NOTE: The draft ordinance presented for Village Board consideration amends the right of way regulations in the Village Code, which need to be adopted by August 1st. It does not address small cell wireless facilities on property outside of the right of way. We recommend that the Village begin the process of amending its UDO to incorporate regulations for small wireless facilities proposed to be located on property zoned for commercial or industrial uses, which the Act designates as permitted uses.

ORDINANCE NO. 12-2018

**AN ORDINANCE AMENDING THE VILLAGE CODE
REGARDING SMALL CELL WIRELESS FACILITIES**

WHEREAS, the Village of Gilberts is an Illinois municipal corporation;

WHEREAS, the Village is authorized under the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*, and Illinois law to adopt ordinances pertaining to the public health, safety and welfare; and

WHEREAS, the Village is further authorized to adopt the amendments contained in this Ordinance pursuant to its authority to regulate the public right-of-way under section 11-80-1 *et seq.*, of the Illinois Municipal Code; and

WHEREAS, the Village uses the public right-of-way within its Village limits to provide essential public services to its residents and businesses. The public right-of-way within the Village is a limited public resource held by the Village for the benefit of its citizens and the Village has a custodial duty to ensure that the public right-of-way is used, repaired, and maintained in a manner that best serves the public interest; and

WHEREAS, growing demand for personal wireless telecommunications services has resulted in increasing requests nationwide and locally from the wireless industry to place small wireless facilities on Village-owned structures in the public right-of-way. While State and federal law limit the authority of local governments to enact laws that unreasonably discriminate among providers of functionally equivalent services, prohibit, or have the effect of prohibiting the provision of telecommunications services by wireless service providers, the Village is authorized, under existing State and federal law, to enact appropriate regulations and design standards relative to small wireless facility installations in the public right-of-way; and

WHEREAS, in anticipation of continued increased demand for placement of small wireless facility installations within the public right-of-way and in accordance with the Small Wireless Facilities Deployment Act, the Village Board finds that it is in the best interests of the public health, safety and general welfare of the Village to amend its current right of way construction standards in Title 8, Chapter 1 of the Village Code to establish generally applicable standards for the use of such facilities and installations within the public right-of-way in the Village so as to, among other things: (i) preserve the character of the neighborhoods in which small wireless facilities are installed; (ii) minimize any adverse visual impact of small wireless facilities and prevent visual blight in the neighborhoods in which facilities are installed; (iii) codify the application and permitting procedure for the installation of small wireless facilities in the Village; (iv) establish the annual recurring rates for small wireless facilities; and (v) codify the removal, relocation, or modification requirements for small wireless facilities placed in the Village right-of-way, as set forth in this Ordinance.

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois as follows:

Section 1. **Recitals.** The recitals are incorporated into this Section 1 as if fully set forth.

Section 2. **Amendment.** Article C, entitled “Construction of Facilities in Rights of Way,” of Chapter 8, entitled “Streets, Sidewalks, and Public Ways, of Title 9, “Building and Construction,” of the Gilberts Village Code is deleted in its entirety and replaced with the new Article 8C attached to this Ordinance as Exhibit A.

Section 3. **Severability.** In the event a court of competent jurisdiction finds this Ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

Section 4. **Repeal and Saving Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

Section 5. **Effective Date.** Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form.

PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this ____ day of _____, 2018.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Elissa Kojzarek	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Jeanne Allen	_____	_____	_____	_____
Trustee Lou Hacker	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS ____ DAY OF _____, 2018

Village President, Rick Zirk

(SEAL)

ATTEST: _____
Village Clerk, Debra Meadows

Published: _____

Exhibit A

Amendment to Title 8, Chapter 1 of Gilberts Village Code

[additions shown in **bold, double-underlined**; deletions in ~~striketrough~~]

ARTICLE C. CONSTRUCTION OF FACILITIES IN PUBLIC RIGHTS OF WAY

9-8C-1: PURPOSE; SCOPE; INTERPRETATION:

- A. Purpose: The purpose of this article is to establish policies and procedures for constructing facilities on rights of way within the village jurisdiction which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the village rights of way and the village as a whole.
- B. Intent: In enacting this article, the village intends to exercise its authority over the rights of way in the village and, in particular, the use of the public ways and property by **wireless providers or** utilities, by establishing uniform standards to address issues presented by ~~utility~~ facilities including, without limitation:
1. Prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
 2. Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
 3. Prevent interference with the facilities and operations of the village utilities and of other utilities lawfully located in rights of way or public property;
 4. Protect against environmental damage, including damage to trees, from the installation of ~~utility~~ facilities;
 5. Protect against increased stormwater runoff due to structures and materials that increase impermeable surfaces;
 6. Preserve the character of the neighborhoods in which facilities are installed;
 7. Preserve open space, particularly the tree lined parkways that characterize the village residential neighborhoods;
 8. Prevent visual blight from the proliferation of facilities in the rights of way; and
 9. Assure the continued safe use and enjoyment of private properties adjacent to ~~utility~~ facilities locations.
- C. Scope: This article applies to all facilities on, over, above, along, upon, under, across, or within the rights of way within the jurisdiction of the village. A facility lawfully established prior to the effective date hereof may continue to be maintained, repaired and operated by

the wireless provider or utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

D. Franchises, Licenses, Or Similar Agreements:

1. The village, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the village rights of way. Utilities that are not required by law to enter into such an agreement may request that the village enter into such an agreement. In such an agreement, the village may provide for terms and conditions inconsistent with this article.
2. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the village, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
3. In the event of any conflict with, or inconsistency between, the provisions of this article and the provisions of any franchise, license or similar agreement between the village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

E. Conflicting Provisions:

1. This article supersedes all sections or parts of sections adopted prior hereto that are in conflict herewith, to the extent of such conflict.
2. In the event that applicable federal or state laws or regulations conflict with the requirements of this article, the wireless provider or utility shall comply with the requirements of this article to the maximum extent possible without violating federal or state laws or regulations.

F. Sound Engineering Judgment: The village shall use sound engineering judgment when administering this article and may vary the standards, conditions, and requirements expressed in this article when the village so determines. Nothing herein shall be construed to limit the ability of the village to regulate its rights of way for the protection of the public health, safety and welfare.

9-8C-2: DEFINITIONS:

As used in this article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this section. Any term not defined in this section shall have the meaning ascribed thereto in 92 Illinois administrative code 530.30 unless the context clearly requires otherwise.

AASHTO: American Association of State Highway and Transportation Officials.

ANSI: American National Standards Institute.

ANTENNA: Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of any type of wireless communications services.

ASTM: American Society for Testing and Materials.

APPLICANT: A person applying for a permit under this article.

BACKFILL: The methods or materials for replacing excavated material in a trench or pit.

BORE OR BORING: To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

BUILDING OFFICIAL: The village building official or his or her designee.

CABLE OPERATOR: That term as defined in 47 USC 522(5).

CABLE SERVICE: That term as defined in 47 USC 522(6).

CABLE SYSTEM: That term as defined in 47 USC 522(7).

CARRIER PIPE: The pipe enclosing the liquid, gas or slurry to be transported.

CASING: A structural protective enclosure for transmittal devices such as carrier pipes, electrical conductors, and fiber optic devices.

CLEAR ZONE: The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a nonrecoverable slope, and a clear runout area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO "Roadside Design Guide".

COATING: Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

CODE: The village code of the village of Gilberts.s

COLLOCATE OR COLLOCATION: To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

COMMUNICATION SERVICE: Cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(33), as amended; or wireless service other than mobile service.

COMMUNICATION SERVICES PROVIDER: A cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

CONDUCTOR: Wire carrying electrical current.

CONDUIT: A casing or encasement for wires or cables.

CONSTRUCTION OR CONSTRUCT: The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

COVER: The depth of earth or backfill over buried utility pipe or conductor.

CROSSING FACILITY: A facility that crosses one or more right of way lines of a right of way.

DIRECTOR OF PUBLIC WORKS: The village director of public works or his or her designee.

DISRUPT THE RIGHT OF WAY: Any work that obstructs the right of way or causes a material adverse effect on the use of the right of way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

EMERGENCY: Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right of way, or immediate maintenance required for the health and safety of the general public served by the utility.

ENCASEMENT: Provision of a protective casing.

EQUIPMENT: Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

EXCAVATION: The making of a hole or cavity by removing material, or laying bare by digging.

EXTRA HEAVY PIPE: Pipe meeting ASTM standards for this pipe designation.

FACILITY: All structures, devices, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, **small wireless facilities, as defined in this chapter**, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights of way under this article. For purposes of this article, the term "facility" shall not include any facility owned or operated by the village.

FREESTANDING FACILITY: A facility that is not a crossing facility or a parallel facility, such as an antenna, **monopole, utility pole**, transformer, pump, or meter station.

FRONTAGE ROAD: A roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

HAZARDOUS MATERIALS: Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the building official to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to, explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents,

flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

HIGHWAY: A specific type of right of way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

HIGHWAY CODE: The Illinois highway code, 605 Illinois Compiled Statutes 5/1-101 et seq., as amended from time to time.

HISTORIC DISTRICT OR HISTORIC LANDMARK: A building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

HOLDER: A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois cable and video competition law, 220 Illinois Compiled Statutes 5/21-401.

ICC: Illinois commerce commission.

IDOT: Illinois department of transportation.

JULIE: The joint utility locating information for excavators utility notification program.

JACKING: Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

JETTING: Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

JOINT USE: The use of pole lines, trenches or other facilities by two (2) or more utilities.

MAJOR INTERSECTION: The intersection of two (2) or more major arterial highways.

MONOPOLE: A structure composed of a single spire, pole or tower designed and principally used to support antennas or related equipment and that is not a utility pole.

MUNICIPALLY-OWNED INFRASTRUCTURE: Infrastructure in the public right-of-way within the boundaries of the village, including, but not limited to, streetlights, traffic signals, towers, structures, or buildings owned, operated or maintained by the village.

OCCUPANCY: The presence of facilities on, over or under a right of way.

PARALLEL FACILITY: A facility that is generally parallel or longitudinal to the centerline of a right of way.

PARKWAY: Any portion of the right of way not improved by a street or sidewalk.

PAVEMENT CUT: The removal of an area of pavement for access to a facility or for the construction of a facility.

PERMITTEE: That entity to which a permit has been issued pursuant to section [9-8C-4](#) of this article.

PETROLEUM PRODUCTS PIPELINES: Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal slurry.

PRACTICABLE: That which is performable, feasible or possible, rather than that which is simply convenient.

PRESSURE: The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

PROMPT: That which is done within a period of time specified by the village. If no time period is specified, the period shall be thirty (30) business days.

PUBLIC ENTITY: A legal entity that constitutes or is part of the government, whether at the local, state or federal level.

RESTORATION: The repair of a right of way, highway, roadway, or other area disrupted by the construction of a facility.

RIGHT OF WAY OR RIGHTS OF WAY: Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the village has the right and authority to authorize, regulate or permit the location of facilities other than those of the village. "Right of way" or "rights of way" shall not include any real or personal village property that is not specifically described in this definition and shall not include village buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right of way.

ROADWAY: That part of the highway that includes the pavement and shoulders.

SALE OF TELECOMMUNICATIONS AT RETAIL: The transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for its use or consumption and not for sale.

SECURITY FUND: That amount of security required pursuant to subsection [9-8C-5C](#) of this article.

SHOULDER: A width of the roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

SMALL WIRELESS FACILITY: A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

SOUND ENGINEERING JUDGMENT: A decision(s) consistent with generally accepted engineering principles, practices and experience.

TELECOMMUNICATIONS: Includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated, nontraffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations.

"Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end to end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the cable communications act of 1984 (47 USC section 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the village through an open video system as defined in the rules of the federal communications commission (47 CFR section 76.1500 and following), as now or hereafter amended.

TELECOMMUNICATIONS PROVIDER: Any person that installs, owns, operates or controls facilities in the right of way used or designed to be used to transmit telecommunications in any form.

TELECOMMUNICATIONS RETAILER: Means and includes every person engaged in making "sales of telecommunications at retail" as defined in this section.

TRENCH: A relatively narrow open excavation for the installation of an underground facility.

UTILITY: The individual or entity owning or operating any "facility" that is not a small wireless facility as defined in this section.

UTILITY POLE: An upright pole designed and used to support electric cables, telephone cables, telecommunication cables, cable service cables, which are used to provide lighting, traffic control, signage, or a similar function.

VENT: A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

VIDEO SERVICE: That term as defined in section 21-201(v) of the Illinois cable and video competition law of 2007, 220 Illinois Compiled Statutes 5/21-201(v).

VILLAGE: The village of Gilberts.

WATER LINES: Pipelines carrying raw or potable water.

WET BORING: Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

WIRELESS FACILITY: Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structure or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

WIRELESS INFRASTRUCTURE PROVIDER: Any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the village.

WIRELESS PROVIDER: A wireless infrastructure provider or a wireless service provider.

WIRELESS SERVICES: Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

WIRELESS SERVICES PROVIDER: A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE: A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole.

9-8C-3: ANNUAL REGISTRATION REQUIRED:

Every wireless provider or utility that occupies a right of way within the village shall register on January 1 of each year with the building official, providing the wireless provider's or utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the wireless provider or utility in connection with emergencies involving the wireless provider's or utility's facilities in the right of way and a twenty four (24) hour telephone number for each such person, and evidence of insurance as required in subsection 9-8C-5A of this article, in the form of a certificate of insurance.

9-8C-4: PERMIT REQUIREMENTS:

A. Permit Required; Exemptions: No person shall "construct" (as defined in section 9-8C-2 of this article) any facility on, over, above, along, upon, under, across, or within any village right of way which: 1) changes the location of the facility; 2) adds a new facility; 3) disrupts the "right of way" (as defined in section 9-8C-2 of this article); or 4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right of way without first filing an application with the village building official and obtaining a permit from the village therefor, except as otherwise provided in this article. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right of way.

B. Application For Permit:

1. All applications for permits pursuant to this article shall be filed on a form provided by the village and shall be filed in such number of duplicate copies as the village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly. The application for a small wireless facility, along with supporting information and notices, must be submitted to the village.

No application, approval, or permit shall be required for routine maintenance, the replacement of small wireless facilities that are substantially similar, the same size or smaller, if the wireless provider notifies the village at least 10 days prior to the planned replacement, or the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable safety codes. The village may require a permit to work within the right-of-way for activities that affect traffic patterns or that require lane closures.

2. The application shall be made by the wireless provider or utility or its duly authorized representative and shall contain, at a minimum, the following:
 - a. The utility's applicant's name and address and telephone and telecopy numbers;
 - b. The applicant's name and address, if different than the wireless provider or utility, its telephone and telecopy numbers, e-mail address, and its interest in the work;

- c. The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
 - d. A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
 - e. Evidence that the wireless provider or utility has placed on file with the village:
 - (1) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the "Illinois Manual On Uniform Traffic Control Devices", to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (2) An emergency contingency plan which shall specify the nature of potential emergencies including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the village and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this article unless the village finds that additional information or assurances are needed;
 - f. Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
 - g. Electronic versions of the application, plans and specifications, submitted in a format specified by the village building official;
 - h. Evidence of insurance as required in subsection [9-8C-5A](#) of this article;
 - i. Evidence of posting of the security fund as required in subsection [9-8C-5C](#) of this article;
 - j. Any request for a variance from one or more provisions of this article (see section [9-8C-15](#) of this article); and
 - k. Such additional information as may be reasonably required by the village.
3. In addition to the requirements of subsection B2 of this section, the permit application shall include the following items, as applicable to the specific ~~utility~~ facility that is the subject of the permit application:
- a. In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any certificate of public convenience and necessity or other regulatory authorization that the applicant is required by law to obtain, or that the

applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;

- b. In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- c. In the case of water lines, indicate that all requirements of the Illinois environmental protection agency, division of public water supplies, have been satisfied;
- d. In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois environmental protection agency, division of water pollution control, and the metropolitan water reclamation district (other local or state entities with jurisdiction) have been satisfied; or
- e. In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

f. In the case of small wireless facilities, include the following:

(1) Drawings and site plans for each proposed small wireless facility covered by the application;

(2) The location where each proposed small wireless facility or utility pole will be installed and photographs of the location and its immediate surroundings;

(3) A site specific structural analysis and engineering drawing for each proposed small wireless facility covered by the application, prepared and stamped by a professional engineer, which demonstrates the utility pole or municipally-owned infrastructure is safely capable of supporting the small wireless facility in all reasonably foreseeable weather conditions without creating a risk to public health and safety. The structural analysis will also describe the method by which the facility is designed to fail and demonstrate that any structural failure to the facility shall not cause harm to any residential structure;

(4) The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;

(5) A proposed schedule for the installation and completion of each small wireless facility covered by the application;

(6) Certification that the collocation complies with this chapter; and

(7) Applications must include the screening and stealth concealment methods used for each proposed small wireless facility covered by the application.

- 4. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility **applicant** in writing to the village within thirty (30) business days after the change necessitating the amendment.

C. Fees; Exemption: Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this article shall be accompanied by a fee in the amount established by section [2-4-28](#) of this code except that for small wireless facilities, the following fees shall apply:

1. All applications for the collocation of a single small wireless facility on an existing utility pole or wireless support structure shall be accompanied by a fee in the amount of \$650. All applications for the collocation of more than one small wireless facility on an existing utility pole or wireless support structure shall be accompanied by a fee in the amount of \$350 for each small wireless facility addressed in said application. An application for the installation of a small wireless facility that will require a new utility pole must be accompanied by a fee in the amount of \$1,000.
2. Applications for small wireless facilities may be submitted on a consolidated basis provided they involve the same type of small wireless facility and the same type of structure. The village may, at its discretion, remove small wireless facility collocations from the consolidated application and treat them separately for purposes of deeming the application incomplete or denied.

No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the electricity infrastructure maintenance fee act¹

D. Action On Applications:

1. Application Deadlines for Small Wireless Facilities: Applications are deemed complete if the village does not notify the applicant otherwise within 30 days of receipt of the application. If the application to collocate a small wireless facility is to be placed on an existing utility pole, the village will notify the applicant of its approval or denial within 90 days. If the village fails to notify the applicant within that timeframe, the application will be deemed approved. If the application to collocate a small wireless facility requires the installation of a new utility pole, the village will notify the applicant of its approval or denial within 120 days. If the village fails to notify the applicant within that timeframe, the application will be deemed approved.

4. 2 Review Of Applications; Grant Or Denial Of Permit: Completed permit applications, containing all required documentation, shall be examined by the village building official on a nondiscriminatory basis within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and or regulations that concern public safety, the village building official shall notify the applicant of the basis for a denial, including specific code provisions upon which the denial was based. The applicant may cure the deficiencies and resubmit a revised application without paying additional application fees. ~~reject such application in writing, stating the reasons therefor.~~ If the village building official is satisfied that the proposed work conforms to the requirements of this chapter and all applicable ordinances, codes, laws, rules, and regulations, the village building official shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the village building official, that the construction proposed under the

application shall be in full compliance with the requirements of this article. **When reviewing applications for small wireless facilities, the village will approve or deny the revised application within 30 days after the applicant resubmits the application or it will be deemed approved.**

2- **3.** Additional Review Of Telecommunications Retailers' Applications:

- a. Pursuant to section 4 of the telephone company act, 220 Illinois Compiled Statutes 65/4, a telecommunications retailer shall notify the village that it intends to commence work governed by this article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the village not less than ten (10) business days prior to the commencement of work requiring no excavation and not less than thirty (30) business days prior to the commencement of work requiring excavation. The village building official shall specify the portion of the right of way upon which the facility may be placed, used and constructed.
- b. In the event that the village building official fails to provide such specification of location to the telecommunications retailer within either: 1) ten (10) business days after service of notice to the village by the telecommunications retailer in the case of work not involving excavation for new construction; or 2) twenty five (25) business days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this article.
- c. Upon the provision of such specification by the village, where a permit is required for work pursuant to subsection A of this section, the telecommunications retailer shall submit to the village an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of subsection D1 of this section.

3- **4.** Additional Review Of Holders Of State Authorization Under The Cable And Video Competition Law: Applications by a utility that is a holder of a state issued authorization under the cable and video competition law of 2007 shall be deemed granted forty five (45) business days after submission to the village, unless otherwise acted upon by the village, provided the holder has complied with applicable village codes, ordinances, and regulations.

E. Effect Of Permit:

1. A permit from the village authorizes a permittee to undertake only certain activities in accordance with this article on village rights of way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights of way.
2. No permit issued under this article shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

3. No construction shall begin pursuant to a permit issued under this article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a preconstruction meeting. The preconstruction meeting shall be held at a date, time and place designated by the village with such village representatives in attendance as the village deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights of way by the public during construction, and access and egress by adjacent property owners.
4. The issuance of a permit by the village does not excuse the permittee from complying with other requirements of the village and applicable statutes, laws, ordinances, rules, and regulations. (Ord. 07-24, 12-18-2007)

5. Collocation of small wireless facilities must be completed within 180 days after the issuance of the permit. If collocation is not complete, the permit will be void. Permits for small wireless facilities are valid for 5 years from the time of issuance.

- F. Revised Permit Drawings: In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the village within ninety (90) business days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this article, it shall be treated as a request for variance in accordance with section [9-8C-15](#) of this article. If the village denies the request for a variance, then the permittee shall either remove the facility from the right of way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

G. Suspension Or Revocation Of Permit:

1. Grounds: The village may revoke or suspend a permit issued pursuant to this article for one or more of the following reasons:
 - a. Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
 - b. Noncompliance with this article;
 - c. Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights of way presents a direct or imminent threat to the public health, safety, or welfare; or
 - d. Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

2. Notice Requirements: The village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this article.
3. Options Of Permittee:
 - a. Upon receipt of a written notice of revocation or suspension from the village, the permittee shall have the following options:
 - (1) Immediately provide the village with evidence that no cause exists for the revocation or suspension;
 - (2) Immediately correct, to the satisfaction of the village, the deficiencies stated in the written notice, providing written proof of such correction to the village within five (5) business days after receipt of the written notice of revocation; or
 - (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights of way and restore the rights of way to the satisfaction of the village, providing written proof of such removal to the village within ten (10) business days after receipt of the written notice of revocation.
 - b. The village may, in its discretion, for good cause shown, extend the time periods provided in this subsection G3.
4. Stop Work Order: In addition to the issuance of a notice of revocation or suspension, the village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within subsection G1 of this section.
5. Failure Or Refusal Of Permittee To Comply: If the permittee fails to comply with the provisions of subsection G3 of this section, the village or its designee may, at the option of the village: a) correct the deficiencies; b) upon not less than twenty (20) business days' notice to the permittee, remove the subject facilities or equipment; or c) after not less than thirty (30) business days' notice to the permittee of failure to cure the noncompliance, deem them abandoned and the property of the village. The permittee shall be liable in all events to the village for all costs of removal.

6. Annual Recurring Rates for Small Wireless Facilities. The village shall charge an annual recurring rate for the collocation of small wireless facilities on municipally-owned infrastructure located in its right-of-way equal to either \$200 per utility pole, or the actual, direct, and reasonable costs related to the wireless provider's use of space on the village utility pole, whichever is greater. If the village elects to charge the actual, direct, and reasonable costs related to the wireless provider's use of space on the municipally-owned infrastructure, it shall adopt a fee schedule on an annual basis.

9-8C-5: INSURANCE; INDEMNITY; SECURITY:

A. Insurance Requirements:

1. Coverages And Limits:

a. Unless otherwise provided by franchise, license, or similar agreement, each **wireless provider or** utility occupying the right of way or constructing any facility in the right of way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the village and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in subsections A1a(1) and A1a(2) of this section:

(1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:

(A) Five million dollars (\$5,000,000.00) for bodily injury or death to each person;

(B) Five million dollars (\$5,000,000.00) for property damage resulting from any one accident; and

(C) Five million dollars (\$5,000,000.00) for all other types of liability;

~~(2) Automobile liability for owned, nonowned and hired vehicles with a combined single limit of one million dollars (\$1,000,000.00) for personal injury and property damage for each accident;~~ **Property insurance for replacement costs against all risks; and**

~~(3) Workers' compensation with statutory limits; and~~

~~(4) Employers' liability insurance with limits of not less than one million dollars (\$1,000,000.00) per employee and per accident.~~

b. If the **wireless provider or** utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this subsection.

2. Excess Or Umbrella Policies: The coverages required by this subsection may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

3. Copies Required: The **wireless provider or** utility shall provide copies of any of the policies required by this subsection to the village within ten (10) business days following receipt of a written request therefor from the village.

4. Maintenance And Renewal Of Required Coverages:

a. The insurance policies required by this subsection shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) business days after receipt by the Village, by

registered mail or certified mail, return receipt requested, of a written notice addressed to the Village President of such intent to cancel or not to renew.

- b. Within ten (10) business days after receipt by the village of said notice, and in no event later than ten (10) business days prior to said cancellation, the wireless provider or utility shall obtain and furnish to the village evidence of replacement insurance policies meeting the requirements of this subsection.
5. Self-Insurance: A wireless provider or utility may self-insure all or a portion of the insurance coverage and limit requirements required by subsection A1 of this section. A wireless provider or utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under subsection A1 of this section, or the requirements of subsections A2, A3 and A4 of this section. A wireless provider or utility that elects to self-insure shall provide to the village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under subsection A1 of this section, such as evidence that the wireless provider or utility is a "private self-insurer" under the workers' compensation act².
6. Effect Of Insurance And Self-Insurance On Wireless Provider's or Utility's Liability: The legal liability of the wireless provider or utility to the village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this subsection shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.
7. Insurance Companies: All insurance provided pursuant to this subsection shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the state of Illinois. (All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.)
- B. Indemnification: By occupying or constructing facilities in the right of way, a wireless provider or utility shall be deemed to agree to defend, indemnify and hold the village and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of or result from, the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the wireless provider or utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights of way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this article or by a franchise, license, or similar agreement; provided, however, that the wireless provider's or utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this article by the village, its officials, officers, employees, agents or representatives.
- C. Security:
 1. Purpose: The permittee shall establish a security fund in a form and in an amount as set forth in this subsection. The security fund shall be continuously maintained in accordance

with this subsection at the permittee's sole cost and expense until the completion of the work authorized under the permit. The security fund shall serve as security for:

- a. The faithful performance by the permittee of all the requirements of this article;
 - b. Any expenditure, damage, or loss incurred by the village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the village issued pursuant to this article; and
 - c. The payment by the permittee of all liens and all damages, claims, costs, or expenses that the village may pay or incur by reason of any action or nonperformance by the permittee in violation of this article including, without limitation, any damage to public property or restoration work the permittee is required by this article to perform that the village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the village from the permittee pursuant to this article or any other applicable law.
2. Form: The permittee shall provide the security fund to the village in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the village, or an unconditional letter of credit in a form acceptable to the village. Any surety bond or letter of credit provided pursuant to this subsection C2 shall, at a minimum:
- a. Provide that it will not be canceled without prior notice to the village and the permittee;
 - b. Not require the consent of the permittee prior to the collection by the village of any amounts covered thereby; and
 - c. Provide a location convenient to the village and within the state of Illinois from which it can be drawn.
3. Amount: The dollar amount of the security fund shall be sufficient to provide for the reasonably estimated cost to restore the right of way to at least as good a condition as that existing prior to the construction under the permit, as determined by the village building official, and may also include reasonable, directly related costs that the village estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the village, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the village building official may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the security fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this subsection C3 for any single phase.
4. Withdrawals: The village, upon fourteen (14) business days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this subsection C4, may withdraw an amount from the security fund; provided, that the permittee has not reimbursed the village for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:

- a. Fails to make any payment required to be made by the permittee hereunder;
 - b. Fails to pay any liens relating to the facilities that are due and unpaid;
 - c. Fails to reimburse the village for any damages, claims, costs or expenses which the village has been compelled to pay or incur by reason of any action or nonperformance by the permittee; or
 - d. Fails to comply with any provision of this article that the village determines can be remedied by an expenditure of an amount in the security fund. (Ord. 07-24, 12-18-2007)
5. Replenishment: Within fourteen (14) business days after receipt of written notice from the village that any amount has been withdrawn from the security fund, the permittee shall restore the security fund to the amount specified in subsection C3 of this section.
6. Interest: The permittee may request that any and all interest accrued on the amount in the security fund be returned to the permittee by the village, upon written request for said withdrawal to the village; provided, that any such withdrawal does not reduce the security fund below the minimum balance required in subsection C3 of this section.
7. Closing And Return Of Security Fund: Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the security fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the village for failure by the permittee to comply with any provisions of this article or other applicable law. In the event of any revocation of the permit, the security fund, and any and all accrued interest therein, shall become the property of the village to the extent necessary to cover any reasonable costs, loss or damage incurred by the village as a result of said revocation; provided, that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.
8. Rights Not Limited: The rights reserved to the village with respect to the security fund are in addition to all other rights of the village, whether reserved by this article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said security fund shall affect any other right the village may have. Notwithstanding the foregoing, the village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.)

9-8C-6: UTILITY CHANGE OF OWNERSHIP, IDENTITY OR LEGAL STATUS:

- A. Notification Of Change: A utility shall notify the village no less than thirty (30) business days prior to the transfer of ownership of any facility in the right of way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and applicable laws, ordinances, rules and regulations, including this article, with respect to the work and facilities in the right of way.
- B. Amended Permit: A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the

terms and conditions of the permit if the new owner uses the facility or allows it to remain on the village right of way.

- C. Insurance And Bonding: All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

9-8C-7: GENERAL CONSTRUCTION STANDARDS:

- A. Standards And Principles: All construction in the rights of way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

1. "Standard Specifications For Road And Bridge Construction";
2. "Supplemental Specifications And Recurring Special Provisions";
3. "Highway Design Manual";
4. "Highway Standards Manual";
5. "Standard Specifications For Traffic Control Items";
6. "Illinois Manual On Uniform Traffic Control Devices" (92 Illinois administrative code section 545);
7. "Flagger's Handbook"; and
8. "Work Site Protection Manual For Daylight Maintenance Operations". (Ord. 07-24, 12-18-2007)

- . Interpretation Of Standards And Principles: If a discrepancy exists between or among differing principles and standards required by this article, the village building official shall determine, in the exercise of sound engineering judgment, which principles apply, and such decision shall be final. If requested, the village building official shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.)

9-8C-8: PUBLIC SAFETY AND TRAFFIC CONTROL:

The placement of any antenna, wireless facility or small wireless facilities located in the village right-of-way may not interfere with the frequencies used by public safety agencies for public safety communications. Unacceptable interference will be determined in accordance with industry standards and the Federal Communications Commission's regulations addressing unacceptable interference to public safety spectrum. If an antenna, wireless facility or small wireless facility causes such interference, the owner must take all steps necessary to correct and eliminate the interference at its own costs. The village may terminate a permit for any antenna,

wireless facility or small wireless facility based on such interference if the interference is not corrected.

The village may reserve space on its utility pole for future public safety uses. This reservation of space may preclude the collocation of a small wireless facility where the village determines that the utility pole cannot accommodate both uses.

- A. Minimum Requirements: The village minimum requirements for traffic protection are contained in IDOT's "Illinois Manual On Uniform Traffic Control Devices" and this code.
- B. Warning Signs, Protective Devices, And Flaggers: The **wireless provider or** utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting applicable federal, state, and local requirements for protection of the public and the utility workers when performing any work on the rights of way.
- C. Interference With Traffic: All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.
- D. Notice When Access Blocked: At least forty eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the **wireless provider or** utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to section [9-8C-14](#) of this article, the **wireless provider or** utility shall provide such notice as is practicable under the circumstances.
- E. Compliance Required: The **wireless provider or** utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the **wireless provider's or** utility's attention by the village.

9-8C-9: LOCATION OF FACILITIES:

- A. General Requirements: In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.
 - 1. No Interference With Village Facilities: No utility facilities shall be placed in any location if the village building official determines that the proposed location will require the relocation or displacement of any of the village utility facilities or will otherwise interfere with the operation or maintenance of any of the village utility facilities.
 - 2. Minimum Interference And Impact: The proposed location shall cause only the minimum possible interference with the use of the right of way and shall cause only the minimum possible impact upon, and interference with, the rights and reasonable convenience of property owners who adjoin said right of way.
 - 3. No Interference With Travel: No utility facility shall be placed in any location that interferes with the usual travel on such right of way.

4. No Limitations On Visibility: No ~~utility~~ facility shall be placed in any location so as to limit visibility of or by users of the right of way.
5. Size Of Utility Facilities: The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

B. Parallel Facilities Located Within Highways:

1. Overhead Parallel Facilities: An overhead parallel facility may be located within the right of way lines of a highway only if:
 - a. Lines are located as near as practicable to the right of way line and as nearly parallel to the right of way line as reasonable pole alignment will permit;
 - b. Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (2') (0.6 m) behind the face of the curb, where available;
 - c. Where pavement is uncurbed, poles are as remote from the pavement edge as practicable with a minimum distance of four feet (4') (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
 - d. No pole is located in the ditch line of a highway; and
 - e. Any ground mounted appurtenance is located within one foot (1') (0.3 m) of the right of way line or as near as possible to the right of way line.
2. Underground Parallel Facilities: An underground parallel facility may be located within the right of way lines of a highway only if:
 - a. The facility is located as near the right of way line as practicable and not more than eight feet (8') (2.4 m) from and parallel to the right of way line;
 - b. A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in an existing conduit without disrupting the pavement); and
 - c. In the case of an underground power or communications line, the facility shall be located as near the right of way line as practicable and not more than five feet (5') (1.5 m) from the right of way line, and any aboveground appurtenance shall be located within one foot (1') (0.3 m) of the right of way line or as near as practicable.

C. Facilities Crossing Highways:

1. No Future Disruption: The construction and design of crossing facilities installed between the ditch lines or curb lines of village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.

2. Cattle Passes, Culverts Or Drainage Facilities: Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
 3. Ninety Degree Crossing Required: Crossing facilities shall cross at or as near to a ninety degree (90°) angle to the centerline as practicable.
 4. Overhead Power Or Communication Facility: An overhead power or communication facility may cross a highway only if:
 - a. It has a minimum vertical line clearance as required by ICU's rules entitled, "Construction Of Electric Power And Communication Lines" (83 Illinois administrative code 305);
 - b. Poles are located within one foot (1') (0.3 m) of the right of way line of the highway and outside of the clear zone; and
 - c. Overhead crossings at major intersections are avoided.
 5. Underground Power Or Communication Facility: An underground power or communication facility may cross a highway only if:
 - a. The design materials and construction methods will provide maximum maintenance free service life; and
 - b. Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
 6. Markers: The village may require the wireless provider or utility to provide a marker at each right of way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the wireless provider or utility, and an emergency phone number. Markers may also be eliminated as provided in current federal regulations (49 CFR section 192.707 (1989)).
- D. Located Within Particular Rights Of Way: The village may require that facilities be located within particular rights of way that are not highways, rather than within particular highways.
- E. Freestanding Facilities:
- ~~1. The village may restrict the location and size of any freestanding facility located within a right of way.~~
 - ~~2. The village may require any freestanding facility located within a right of way to be screened from view.~~
- 1. Small Wireless Facilities.**
- a. The village may not require the placement of a small wireless facility on a specific utility pole or category of poles. However, should the application necessitate the instillation of a new utility pole, the village may propose that the small wireless**

facility be collocated on an existing utility pole or existing support structure within 100 feet of the proposed collocation. Should the applicant reject the proposed relocated collocation, it must provide a written certification describing the property rights, technical limits or material cost reasons the alternative location will not satisfy the wireless provider's needs. The village may require any monopole, utility pole or other freestanding facility located within a right-of-way to be screened from view in compliance with the appearance standards described in paragraph (h) below.

b. If all existing monopoles, utility poles and other aboveground facilities are located on one side of the right-of-way, all new monopoles, utility poles and other freestanding facilities shall be located on the same side of the right-of-way as the existing aboveground facilities. If there exist above ground facilities on both sides, new freestanding facilities shall be located on the side where the above ground facilities most closely match the scale of the new freestanding facility.

2. Other Facilities.

a. The village may restrict the location and size of any monopole, utility pole or other freestanding facility located within a right-of-way. No freestanding facility located within a right-of-way may be constructed or modified so that the height of the free standing facility is higher by more than ten feet or more than 10%, whichever is greater, than any other existing, freestanding facility located within the right-of-way within three hundred (300) feet of the proposed facility, measured along the center line of the respective right-of-way. Where there are no other freestanding facilities located within three hundred (300) feet of the proposed facility, the maximum height of the freestanding facility shall be forty five (45) feet.

b. The village may require any monopole, utility pole or other freestanding facility located within a right-of-way to be screened from view.

c. If all existing monopoles, utility poles and other aboveground facilities are located on one side of the right-of-way, all new monopoles, utility poles and other freestanding facilities shall be located on the same side of the right-of-way as the existing aboveground facilities. If there exist above ground facilities on both sides, new freestanding facilities shall be located on the side where the above ground facilities most closely match the scale of the new freestanding facility.

F. Aboveground Facilities: Aboveground facilities may be installed only if:

1. No other existing facilities in the area are located underground;
2. New underground installation is not technically feasible; and
3. The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged. Existing utility poles and municipally-owned infrastructure shall be used wherever

practicable; the installation of additional utility poles or monopoles is strongly discouraged.

4. The village is not required to install or maintain any specific utility pole or to continue to install or maintain utility poles in any location if it makes a non-discriminatory decision to eliminate above-ground utility poles of a particular type. For village utility poles with collocated small wireless facilities in place when the village makes a decision to eliminate above-ground utility poles, the village will, at its discretion, either maintain the utility pole or install and maintain an alternative utility pole for the collocation of the small wireless facility, or offer to sell the utility pole to the wireless provider.

G. Facility Attachments To Bridges Or Roadway Structures:

1. **Utility facilities** Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk, and such installations are not permitted.
2. A utility shall include, in its request to accommodate a facility installation on a bridge or roadway structure, supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - a. The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - b. The type, length, value, and relative importance of the highway structure in the transportation system;
 - c. The alternative routings available to the utility and their comparative practicability;
 - d. The proposed method of attachment;
 - e. The ability of the structure to bear the increased load of the proposed facility;
 - f. The degree of interference with bridge maintenance and painting;
 - g. The effect on the visual quality of the structure; and
 - h. The public benefit expected from the utility service as compared to the risk involved.

H. Appearance Standards:

1. The village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
2. A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right of way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

E. **Design and** Appearance Standards:

1. The village may ~~prohibit~~ **discourage** the installation of facilities in particular locations in order to preserve visual quality.
2. A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the highway user **or conflicts with the applicable design standards set forth below.** or impair the aesthetic quality of the lands being traversed

3. Design Standards:

a. Residential Design Standards.

(1) Applicability: These design standards shall apply to each facility located in the right of way in a district zoned for residential uses.

(2) Purpose: ensure visually acceptable facility design and to provide discretion on required and preferred design of small wireless facilities.

- **Applicants must use architectural treatments and stealth techniques to reduce potential visual impacts from all small wireless facilities.**
- **All new utility poles installed for the purpose of mounting a facility must be stealth or camouflaged to blend into the surrounding environment. Examples of stealth or camouflage designs are presented in Figure 1 below.**
- **Small wireless facilities and all ancillary equipment associated with the facility must not emit sound.**
- **Cables must be routed directly from the ground through the pole and equipment enclosures must completely enclose or hide cabling. No exposed cable is allowed.**
- **No flashing lights or unnecessary, non-essential stickers are allowed to be placed on any facility. Stickers must be designed in the same color as the pole to which they are attached.**
- **In no case shall equipment block the sidewalk or pedestrian pathway. All installations must maintain accessibility requirements and standards.**

- All newly installed equipment must be painted with graffiti-resistant paint to match pole color and surroundings.
- Colors and materials for small wireless facilities shall be chosen to minimize the visibility of the facility.
- Antennas attached to existing poles or municipally-owned infrastructure shall be painted and textured to match the existing structure.
- Any ground-mounted facility shall be painted with non-reflective matte finish paint using color shades that are comparable or blend with surrounding natural elements such as soil, trees, or grasslands. Any ground-mounted facility shall be screened from the yard of the property in front of which it is located using year-round landscaping materials. The owner of the ground-mounted facility shall guarantee the landscaping materials for a period of one-year from planting.
- All disturbed pavement and landscaping shall be replaced and areas of bare or disturbed soils must be re-vegetated. If replacement landscape is determined to be infeasible the village may accept mitigation funds to use elsewhere. The owner of the ground-mounted facility shall guarantee the restoration work or reseeded for a period of one-year.
- No facility may display any signage or advertisements unless expressly allowed by the village in a written approval, recommended under FCC regulations or required by law or permit condition. Every facility shall at all times display signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center. All required or permitted signage must face toward the street or otherwise placed to minimize visibility from adjacent sidewalks and structures.

Figure 1: Sample Stealth Designs for Small Cell Utility Poles

Integrated Concealment Poles



SHOWN: 17" Fluted Integrated Pole

SHOWN: 12" Smooth Pole (NON-M Radios)



b. Design Standards in Special Aesthetic/Economic Purpose Zones.

(1) Applicability: These design standards shall apply to facilities in the right of way located in (a) each area, district, neighborhood or zone expressly designated in the village's comprehensive plan as having special aesthetic or economic impacts on the welfare of the community; and (b) each redevelopment area designed under the Tax Increment Allocation Redevelopment Act or the Business District Development and Redevelopment Act.

(2) Purpose: to protect and promote the village's unique character in a manner consistent with state and federal laws and regulations.

- Siting of small wireless facilities in special aesthetic/economic purpose zones must respect the existing character or design ordinance of established zone.**

- Applicants must include proposed stealth and concealment measures in their applications.

Concealment of all small wireless facilities so that the facility is completely hidden from view when view from ground-level.

- Effective camouflage so as to disguise the facility so that it appears to be something other than a facility and is at the same time compatible with its surroundings (for example, designed to look like a tree).
- Small wireless facilities must be designed so that the facilities silhouette, mass and color are masked in such a way as to be virtually indistinguishable from their background.
- Examples of stealth of camouflage designs are presented in Figure 1.

c. Design Standards in Historic Districts.

- (1) Applicability: These design standards apply in facilities in the right of way located in any historic district or on any historic landmark.
 - (2) Purpose: to promote the educational, cultural, economic and general welfare of the village by identifying, preserving, protecting, enhancing and encouraging the continued utilization and the rehabilitation of such areas, properties, structures, sites and objects having a special historical interest or value to the village and its citizens.
- Districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or are eligible for listing, in the National Register of Historic Places are to be avoided, to the greatest extent possible. Local landmarked buildings, properties, sites, or historic districts that are so recognized by an ordinance that meets the requirements of the certified Local Government Program of the Illinois State historic Preservation Office are also to be avoided, to the greatest extent possible.
 - Applicants must include proposed stealth and concealment measures in their applications.
 - Applicant must implement said village-approved design concepts, and the use of camouflage or stealth materials as necessary in order to achieve compliance with historic preservation review.
 - Prior to submitting an application, where the applicant submits an application to site facilities in a historic district, the applicant must meet with the village to discuss any potential design modifications appropriate for the installation.

- When siting a facility in a historic district, wireless provider must avoid removing, obscuring or altering any historic material or significant architectural features. Rehabilitation and make-ready work must not destroy the distinguishing character of the property or its environment.
- Deteriorated architectural features should be repaired rather than replaced, wherever possible by means such as rust removal, calking, limited paint removal and reapplication of paint.

4. All small wireless facilities not governed by the preceding design standards must be placed so as to minimize visibility. The small wireless facility, including all ancillary equipment and appurtenances, must be a color that blends with the surroundings of the utility pole or municipally-owned infrastructure on which it is mounted and use non-reflective materials which blend with the materials and colors of the surrounding area and structures. Any wiring must be concealed within the freestanding facility or covered with an appropriate cover.

5. A facility may not be installed in a manner which defeats any existing concealment elements of the utility pole or municipally-owned infrastructure to which it is attached.

6. Facilities under common ownership or operated on the same radio frequency shall be separated as far as practicable.

7. Small wireless facilities are limited to a maximum height of 10 feet above the utility pole or wireless structure on which it is collocated. The height limit of a new or replacement utility pole or wireless support structure on which small wireless facilities are collocated is limited to the higher of: (i) 10 feet higher than the tallest existing utility pole within 300 feet of the new or replacement utility pole or wireless support structure that is in the same right-of-way; or (ii) 45 feet above ground level. The village shall designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structure shall control the height limitation.

9-8C-10: CONSTRUCTION METHODS AND MATERIALS:

A. Standards And Requirements For Particular Types Of Construction Methods:

1. Boring Or Jacking:

a. Pits And Shoring: Boring or jacking under rights of way shall be accomplished from pits located at a minimum distance specified by the village building official from the edge of the pavement. Pits for boring or jacking shall be excavated no more than forty eight (48) hours in advance of boring or jacking operations and backfilled within forty eight (48) hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.

b. Wet Boring Or Jetting: Wet boring or jetting shall not be permitted under the roadway.

- c. Borings With Diameters Greater Than Six Inches: Borings over six inches (6") (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (1") (25 mm).
 - d. Borings With Diameters Six Inches Or Less: Borings of six inches (6") or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
 - e. Tree Preservation: Any facility located within the drip line of any tree designated by the village to be preserved or protected shall be bored under or around the root system.
2. Trenching: Trenching for facility installation, repair, or maintenance on rights of way shall be done in accord with the applicable portions of section 603 of IDOT's "Standard Specifications For Road And Bridge Construction".
- a. Length: The length of open trench shall be kept to the practicable minimum consistent with requirements for pipeline testing. Only one-half ($\frac{1}{2}$) of any intersection may have an open trench at any time unless special permission is obtained from the village building official.
 - b. Open Trench And Excavated Material: Open trench and windrowed excavated material shall be protected as required by chapter 5 of the "Illinois Manual On Uniform Traffic Control Devices". Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right of way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off road location.
 - c. Drip Line Of Trees: The utility permittee shall not trench within the drip line of any tree designated by the village to be preserved.
3. Backfilling:
- a. Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications For Road And Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - b. For a period of three (3) years from the date construction of a facility is completed, the utility permittee shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the building official, the utility permittee, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the building official.
4. Pavement Cuts: Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set

forth in this subsection A4 is permitted under section [9-8C-15](#) of this article, the following requirements shall apply:

- a. Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the building official. b. Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the village.
- c. All saw cuts shall be full depth.
- d. For all rights of way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a JULIE locate.

5. Encasement:

- a. Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one piece fabrication or by welding or jointed installation approved by the village.
- b. The venting, if any, of any encasement shall extend within one foot (1') (0.3 m) of the right of way line. No aboveground vent pipes shall be located in the area established as a clear zone for that particular section of the highway.
- c. In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the village. Bell and spigot type pipe shall be encased regardless of installation method.
- d. In the case of gas pipelines of sixty (60) psig or less, encasement may be eliminated.
- e. In the case of gas pipelines or petroleum products pipelines with installations of more than sixty (60) psig, encasement may be eliminated only if: 1) extra heavy pipe is used that precludes future maintenance or repair; and 2) cathodic protection of the pipe is provided.
- f. If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right of way.

6. Minimum Cover Of Underground Facilities: Cover shall be provided and maintained at a minimum height, measured after finished grading and completion of required landscaping, as specified in the following table for minimum cover for the type of facility:

Type Of Facility	Minimum Cover
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	At Finished Grade
Electric lines	30 inches (0.8 m)
Communication, cable or video service lines	18 to 24 inches (0.6 m, as determined by village)
Gas or petroleum products	30 inches (0.8 m)
Water line	Sufficient cover to provide freeze protection
Sanitary sewer, storm sewer, or drainage line	Sufficient cover to provide freeze protection

B. Standards And Requirements For Particular Types Of Facilities:

1. Electric Power Or Communication Lines:

a. Code Compliance: Electric power or communications facilities within village rights of way shall be constructed, operated, and maintained in conformity with the provisions of 83 Illinois administrative code part 305 (formerly general order 160 of the Illinois commerce commission) entitled "rules for construction of electric power and communications lines", and the national electrical code.

b. Overhead Facilities: Overhead power or communication facilities shall use single pole construction, and where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guywires are equipped with guy guards for maximum visibility.

c. Underground Facilities:

(1) Cable may be installed by trenching or plowing; provided, that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.

(2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:

(A) The crossing is installed by the use of "moles", "whip augers", or other approved method which compresses the earth to make the opening for cable installation; or

(B) The installation is by the open trench method which is only permitted prior to roadway construction.

(3) Cable shall be grounded in accordance with the national electrical code. (Ord. 07-24, 12-18-2007)

- d. Burial Of Drops: All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as "snow drops", shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the village. Weather permitting, utilities shall bury all temporary drops, excluding snow drops, within ten (10) business days after placement. (Ord. 07-24, 12-18-2007; amd. 2010 Code)
2. Underground Facilities Other Than Electric Power Or Communication Lines: Underground facilities other than electric power or communication lines may be installed by:
 - a. The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
 - b. Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - c. Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - d. Tunneling with vented encasement, but only if installation is not possible by other means.
3. Gas Transmission, Distribution And Service: Gas pipelines within rights of way shall be constructed, maintained, and operated in a village approved manner and in conformance with the federal code of the office of pipeline safety operations, department of transportation, part 192, "transportation of natural and other gas by pipeline: minimum federal safety standards" (49 CFR 192), IDOT's "Standard Specifications For Road And Bridge Construction", and all other applicable laws, rules, and regulations.
4. Petroleum Products Pipelines: Petroleum products pipelines within rights of way shall conform to the applicable sections of ANSI "standard code for pressure piping" (liquid petroleum transportation piping systems ANSI-B 31.4.).
5. Water Lines, Sanitary Sewer Lines, Stormwater Sewer Lines Or Drainage Lines: Water lines, sanitary sewer lines, stormwater sewer lines, and drainage lines within rights of way shall meet or exceed the recommendations of the current "Standard Specifications For Water And Sewer Main Construction In Illinois".
6. Ground Mounted Appurtenances: Ground mounted appurtenances to overhead or underground facilities, when permitted within a right of way, shall be provided with a vegetation free area extending one foot (1') (305 mm) in width beyond the appurtenance in all directions. The vegetation free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the building official. With the approval of the building official, shrubbery surrounding the appurtenance may be used in place of a vegetation free area. The housing for ground mounted appurtenances shall be painted a neutral color to blend with the surroundings.

C. Materials:

1. General Standards: The materials used in constructing facilities within rights of way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications For Road And Bridge Construction", the requirements of the Illinois commerce commission, or the standards established by other official regulatory agencies for the appropriate industry.
2. Material Storage On Right Of Way: No material shall be stored on the right of way without the prior written approval of the village building official. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right of way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right of way maintenance or damage to the right of way and other property. If material is to be stored on the right of way, prior approval must be obtained from the village.
3. Hazardous Materials: The plans submitted by the utility permittee to the village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

D. Operational Restrictions:

1. Construction operations on rights of way may, at the discretion of the village, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right of way or other property.
2. These restrictions may be waived by the building official when emergency work is required to restore vital utility services.
3. Unless otherwise permitted by the village, the hours of construction are those set forth in section [9-3-3](#) of this title.

- E. Existing Facilities: Any wireless provider or utility proposing to construct facilities in the village shall contact JULIE and ascertain the presence and location of existing aboveground and underground facilities within the rights of way to be occupied by its proposed facilities. The village will make its permit records available to a wireless provider or utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the village or by JULIE, a wireless provider or utility shall locate and physically mark its underground facilities within forty eight (48) hours, excluding weekends and holidays, in accordance with the Illinois underground facilities damage prevention act, 220 Illinois Compiled Statutes 50/1 et seq.

9-8C-11: VEGETATION CONTROL:

- A. Electric Utilities; Compliance With State Laws And Regulations: An electric utility shall conduct all tree trimming and vegetation control activities in the right of way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the village as permitted by law.

B. Other Utilities; Tree Trimming Permit:

1. Permit Requirements:

- a. Tree trimming that is done by any other wireless provider or utility with facilities in the right of way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing the same shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this article.
- b. Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

2. Damage To Trees: Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

C. Specimen Trees Or Trees Of Special Significance: The village may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.

D. Chemical Use:

1. Except as provided in subsection D2 of this section, no wireless provider or utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the village for any purpose, including the control of growth, insects or disease.
2. Spraying of any type of brush killing chemicals will not be permitted on rights of way unless the wireless provider or utility demonstrates to the satisfaction of the building official that such spraying is the only practicable method of vegetation control.

9-8C-12: REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES:

A. Within ninety (90) business days following written notice from the village, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights of way whenever the corporate authorities have determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance, or installation of any village improvement in or upon, or the operations of the village in or upon, the rights of way.

Wireless providers are required to provide the village with written notice of its intent to sell or transfer small wireless facilities. Such notice must include the name and contact information of the new wireless provider.

B. Within thirty (30) business days following written notice from the village, any wireless provider or utility that owns, controls, or maintains any unauthorized facility or related

appurtenances within the rights of way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights of way. A facility is unauthorized and subject to removal in the following circumstances:

1. Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
 2. If the facility was constructed or installed without the prior grant of a license or franchise, if required;
 3. If the facility was constructed or installed without prior issuance of a required permit in violation of this article; or
 4. If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.
- C. The village retains the right and privilege to cut or move any facilities located within the rights of way of the village, as the village may determine to be necessary, appropriate or useful, in response to any public health or safety emergency. If circumstances permit, the village shall attempt to notify the wireless provider or utility, if known, prior to cutting or removing a facility and shall notify the wireless provider or utility, if known, after cutting or removing a facility.
- D. Upon abandonment of a utility facility within the rights of way of the village, the utility shall notify the village within ninety (90) business days. Following receipt of such notice, the village may direct the utility to remove all or any portion of the facility if the village building official determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the village, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

With respect to small wireless facilities, a small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of an abandoned small wireless facility shall notify the village within ninety (90) days of it being abandoned and the owner of that small wireless facility must remove the small wireless facility within 90 days after sending such written notice to the village. The village may direct the wireless provider to remove all or any portion of the facility if the village determines that such removal will be in the best interest of the public health, safety and welfare. If the small wireless facility is not removed within 90 days of such notice, the village may remove or cause the removal of the facility pursuant to the terms of its pole attachment agreement for village utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

9-8C-13: CLEANUP AND RESTORATION:

The wireless provider or utility shall remove all excess material and restore all turf and terrain and other property within ten (10) business days after any portion of the right of way is disturbed, damaged or destroyed due to construction or maintenance by the wireless provider

or utility, all to the satisfaction of the village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the village building official. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right of way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this section may be extended by the village building official for good cause shown.

9-8C-14: MAINTENANCE AND REPAIRS:

- A. General Maintenance Requirements: Facilities on, over, above, along, upon, under, across, or within rights of way are to be maintained by or for the wireless provider's or utility in a manner satisfactory to the village and at the wireless provider's or utility's expense.
- B. Emergency Maintenance Procedures: Emergencies may justify noncompliance with normal procedures for securing a permit.
 - 1. If an emergency creates a hazard on the traveled portion of the right of way, the wireless provider or utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right of way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
 - 2. In an emergency, the wireless provider or utility shall, as soon as possible, notify the village building official or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the village police shall be notified immediately.
 - 3. In an emergency, the wireless provider or utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.
- C. Emergency Repairs: The wireless provider or utility must file with the village, in writing, a description of the repairs undertaken in the right of way within forty eight (48) hours after an emergency repair.

9-8C-15: VARIANCES:

- A. Request For Variance: A wireless provider or utility requesting a variance from one or more of the provisions of this article must do so in writing to the village building official as a part of the permit application. The request shall identify each provision of this article from which a variance is requested and the reasons why a variance should be granted.
- B. Authority To Grant Variances: The village building official shall decide, on an individual basis, whether a variance is authorized for each provision of this article identified in the variance request.

C. Conditions:

1. The village building official may authorize a variance only if the wireless provider or utility requesting the variance has demonstrated that:
 - a. One or more conditions not under the control of the wireless provider or utility (such as terrain features or an irregular right of way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
 - b. All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.
2. As a condition for authorizing a variance, the village building official may require the wireless provider or utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this article but which carry out the purposes of this article.

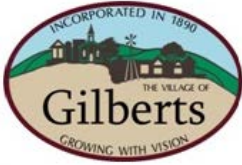
D. Appeals: Any wireless provider or utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the village building official under the provisions of this article shall have the right to appeal to the village board, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the village clerk within thirty (30) business days after the date of such order, requirement, decision or determination. The village board shall commence its consideration of the appeal at the board's next regularly scheduled meeting occurring at least seven (7) business days after the filing of the appeal. The village board shall timely decide the appeal.

9-8C-16: PENALTIES:

- A. Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this article shall be subject to fine in accordance with the penalty provisions of this code. There may be times when the village will incur delay or other costs, including third party claims, because the wireless provider or utility will not or cannot perform its duties under its permit and this article. Unless the wireless provider or utility shows that another allocation of the cost of undertaking the requested action is appropriate, the wireless provider or utility shall bear the village costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the village. Sanctions may be imposed upon a wireless provider or utility that does not pay the costs apportioned thereto.
- B. Nothing in this article shall be construed as limiting any additional or further remedies that the village may have for enforcement of this article.

[Footnote 1:](#) 35 ILCS 645/5-1 et seq.

[Footnote 2:](#) 820 ILCS 305/1 et seq.



Village of Gilberts

Village Hall
87 Galligan Road, Gilberts, Illinois 60136
Ph. 847-428-2861 Fax: 847-428-2955
www.villageofgilberts.com

To: Village President and Board of Trustees
From: Brian Bourdeau, Village Administrator
Date: July 17, 2018 Village Board Meeting
Subject: Item 6A - Phoenix & Associates Contract for Design and Construction of Roadway and Drainage Improvement within the Industrial Park

Phoenix & Associates has been retained and currently serves as the Village's storm water consultant. In conjunction with Village's 2018 Road Program, Phoenix & Associates has proposed to design and construct certain roadway and drainage improvements in the Industrial Park area of the Village.

Included in the packet is a copy of the proposed contract, including cost estimates and a description of the proposed work. The proposed cost estimate is in an amount not to exceed \$605,000. Al Steffan with Robinson Engineering is currently reviewing the scope of work and cost estimate to confirm that it is reasonable and consistent with the work needing completion. The review is anticipated to be complete by the July 17, 2018 Village Board meeting and Al will be present to provide the Board an update.

RESOLUTION

VILLAGE OF GILBERTS

**Resolution Waiving Competitive Bidding and Approving a Contract
With Phoenix & Associates to Design and Construct the Industrial Park
Roadway and Drainage Improvements**

WHEREAS, the Village of Gilberts intends to design, construct, and complete certain roadway and drainage improvements in the Industrial Park area of the Village; and

WHEREAS, Phoenix & Associates has been retained and currently serves as the Village's storm water consultant and has designed and constructed numerous drainage projects within the Village of Gilberts; and

WHEREAS, Phoenix & Associates has proposed to design and construct certain roadway and drainage improvements in the Industrial Park area of the Village ("***Drainage Project***"), which Drainage Project is part of the roadway project that is currently in the design phase; and

WHEREAS, based on Phoenix & Associates' existing relationship as the Village's storm water consultant and its knowledge and history of Gilberts, particularly its management of storm water issues that are present in the project area, the Village finds it to be in the best interest of the Village to waive competitive bidding and to approve a contract with Phoenix & Associates to design and construct the Drainage Project.

Now, Be it Resolved by the President and Board of Trustees of the Village of Gilberts Kane County, Illinois that:

Section 1: The Village of Gilberts hereby waives the competitive bidding requirements for the Drainage Project pursuant to its authority under state law.

Section 2: The Village of Gilberts hereby approves and authorizes the Village President and Village Clerk to execute a contract with Phoenix & Associates for the Drainage Project, substantially in the form attached to, and made a part, of this Ordinance as Exhibit A.

Section 3: This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this ____ day of _____ 2018.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Elissa Kojzarek	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Jeanne Allen	_____	_____	_____	_____
Trustee Lou Hacker	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

Resolution No. 13- 2018

APPROVED THIS ____ DAY OF _____, 2018

Village President, Rick Zirk

(SEAL)

ATTEST:

Village Clerk, Courtney Nicholas

Exhibit A

Contract

**CONTRACT BETWEEN
VILLAGE OF GILBERTS
AND
PHOENIX & ASSOCIATES
FOR
INDUSTRIAL PARK ROADWAY AND DRAINAGE IMPROVEMENTS**

In consideration of the mutual promises set forth below, the **VILLAGE OF GILBERTS**, 87 Galligan Road, Gilberts, Illinois, a municipal corporation (“Owner”), and **PHOENIX & ASSOCIATES**, 94 Railroad Street, Gilberts, Illinois (“Contractor”), make this Contract as of the ____ day of _____, 2018, and hereby agree as follows:

ARTICLE I
THE WORK

1.1 Performance of the Work

Contractor shall, at its sole cost and expense, provide, perform, and complete all of the following, all of which is herein referred to as the “Work”:

1. Labor, Equipment, Materials, and Supplies. Provide, perform, and complete, in the manner described and specified in this Contract, all necessary work, labor, services, transportation, equipment, materials, apparatus, machinery, tools, fuels, gas, electric, water, waste disposal, information, data, and other means and items necessary to accomplish the Work described in **Exhibit A** and depicted on the plans attached as **Exhibit B** (“Work”).

2. Permits. Procure and furnish all permits, licenses, and other governmental approvals and authorizations necessary in connection therewith.

3. Bonds and Insurance. Procure and furnish all Bonds and all certificates and policies of insurance specified in this Contract.

4. Taxes. Pay all applicable federal, state, and local taxes.

5. Miscellaneous. Do all other things required of Contractor by this Contract, including, without limitation, arranging for utility and other services needed for the Work and for testing, including the installation of temporary utility lines, wiring, switches, fixtures, hoses, connections, and meters, and providing sufficient sanitary conveniences and shelters to accommodate all workers and all personnel of Owner engaged in the Work.

6. Quality. Provide, perform and complete all of the foregoing in a proper and workmanlike manner, consistent with the highest standards of professional and construction practices and in full compliance with, and as required by or pursuant to, this Contract, and with the greatest economy, efficiency, and expedition consistent therewith, with only new, undamaged and first quality equipment, materials, and supplies.

1.2 Commencement and Completion Dates

Contractor shall commence the Work and shall diligently and continuously prosecute the Work at such a rate as will allow the Work to be fully provided, performed, and completed in full compliance with this Contract. The time of commencement, rate of progress, and time of completion are referred to in this Contract as the "Contract Time."

1.3 Required Submittals

A. Submittals Required. Contractor shall submit to Owner all documents, data, and information specifically required to be submitted by Contractor under this Contract and shall, in addition, submit to Owner all such drawings, specifications, descriptive information, and engineering documents, data, and information as may be required, or as may be requested by Owner, to show the details of the Work, including a complete description of all equipment, materials, and supplies to be provided under this Contract ("Required Submittals"). Such details shall include, but shall not be limited to, design data, structural and operating features, principal dimensions, space required or provided, clearances required or provided, type and brand of finish, and all similar matters, for all components of the Work.

B. Number and Format. Contractor shall provide three complete sets for each Required Submittal, as required by Owner and/or Engineer. All drawings shall be clearly marked in the lower right-hand corner with the names of Owner and Contractor.

C. Time of Submission and Owner's Review. All Required Submittals shall be provided to Owner no later than the time, if any, specified in this Contract for their submission or, if no time for submission is specified, in sufficient time, in Owner's sole opinion, to permit Owner to review the same prior to the commencement of the part of the Work to which they relate and prior to the purchase of any equipment, materials, or supplies that they describe. Owner shall have the right to require such corrections as may be necessary to make such submittals conform to this Contract. All such submittals shall, after final processing and review with no exception noted by Owner, become a part of this Contract. No Work related to any submittal shall be performed by Contractor until Owner has completed review of such submittal with no exception noted. Owner's review and stamping of any Required Submittal shall be for the sole purpose of examining the general management, design, and details of the proposed Work, shall not relieve Contractor of the entire responsibility for the performance of the Work in full compliance with, and as required by or pursuant to this Contract, and shall not be regarded as any assumption of risk or liability by Owner.

D. Responsibility for Delay. Contractor shall be responsible for any delay in the Work due to delay in providing Required Submittals conforming to this Contract.

1.4 Review and Interpretation of Contract Provisions

Contractor represents and warrants that it has carefully reviewed this Contract, including all of its Attachments, all of which are by this reference incorporated into and made a part of this Contract. Contractor shall, at no increase in the Contract Price, provide workmanship, equipment, materials, and supplies that fully conform to this Contract. Whenever any equipment, materials or supplies are specified or described in this Contract by using the name or other identifying feature of a proprietary product or the name or other identifying feature of a particular manufacturer or vendor, the specific item mentioned shall be understood as establishing the type, function and quality desired. Other manufacturers' or vendors' products may be accepted, provided that the products proposed are equivalent in substance and function to those named as determined by Owner in its sole and absolute discretion.

Contractor shall promptly notify Owner of any discrepancy, error, omission, ambiguity, or conflict among any of the provisions of this Contract before proceeding with any Work affected thereby. If Contractor fails to give such notice to Owner, then the subsequent decision of Owner as to which provision of this Contract shall govern shall be final, and any corrective work required shall not entitle Contractor to any damages, to any compensation in excess of the Contract Price, or to any delay or extension of the Contract Time.

When the equipment, materials, or supplies furnished by Contractor cannot be installed as specified in this Contract, Contractor shall, without any increase in the Contract Price, make all modifications required to properly install the equipment, materials, or supplies. Any such modification shall be subject to the prior review and consent of Owner.

1.5 Conditions at the Work Site; Record Drawings

Contractor represents and warrants that it has had a sufficient opportunity to conduct a thorough investigation of the Work Site and the surrounding area and has completed such investigation to its satisfaction. Contractor shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time based upon conditions found at, or in the vicinity of, the Work Site. When information pertaining to subsurface, underground or other concealed conditions, soils analysis, borings, test pits, utility locations or conditions, buried structures, condition of existing structures, and other investigations is or has been provided by Owner, or is or has been otherwise made available to Contractor by Owner, such information is or has been provided or made available solely for the convenience of Contractor and is not part of this Contract. Owner assumes no responsibility whatever in respect to the sufficiency or accuracy of such information, and there is no guaranty or warranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the Work or the Work Site, or that the conditions indicated are representative of those existing at any particular location, or that the conditions indicated may not change, or that unanticipated conditions may not be present.

Contractor shall be solely responsible for locating all existing underground installations by prospecting no later than two workdays prior to any scheduled excavation or

trenching, whichever is earlier. Contractor shall check all dimensions, elevations, and quantities indicated in this Contract within the same time period as set forth above for prospecting underground installations. Contractor shall lay out the Work in accordance with this Contract and shall establish and maintain such locations, lines and levels. Wherever pre-existing work is encountered, Contractor shall verify and be responsible for dimensions and location of such preexisting work. Contractor shall notify Owner of any discrepancy between the dimensions, elevations and quantities indicated in this Contract and the conditions of the Work Site or any other errors, omissions or discrepancies which Contractor may discover during such inspections. Full instructions will be furnished by Owner should such error, omission, or discrepancy be discovered, and Contractor shall carry out such instructions as if originally specified and without any increase in Contract Price.

Before Final Acceptance of the Work, Contractor shall submit to Owner two sets of Drawings of Record, unless a greater number is specified elsewhere in this Contract, indicating all field deviations.

1.6 Technical Ability to Perform

Contractor represents and warrants that it is sufficiently experienced and competent, and has the necessary capital, facilities, plant, organization, and staff, to provide, perform and complete the Work in full compliance with, and as required by or pursuant to, this Contract.

1.7 Financial Ability to Perform

Contractor represents and warrants that it is financially solvent, and Contractor has the financial resources necessary to provide, perform and complete the Work in full compliance with, and as required by or pursuant to, this Contract.

1.8 Time

Contractor represents and warrants that it is ready, willing, able and prepared to begin the Work on the Commencement Date and that the Contract Time is sufficient time to permit completion of the Work in full compliance with, and as required by or pursuant to, this Contract for the Contract Price, all with due regard to all natural and man-made conditions that may affect the Work or the Work Site and all difficulties, hindrances, and delays that may be incident to the Work.

1.9 Safety at the Work Site

Contractor shall be solely and completely responsible for providing and maintaining safe conditions at the Work Site, including the safety of all persons and property during performance of the Work. This requirement shall apply continuously and shall not be limited to normal working hours. Contractor shall take all safety precautions as shall be necessary to comply with all applicable laws and to prevent injury to persons and damage to property.

Contractor shall conduct all of its operations without interruption or interference with vehicular and pedestrian traffic on public and private rights-of-way, unless it has obtained permits therefor from the proper authorities. If any public or private right-of-way shall be rendered unsafe by Contractor's operations, Contractor shall make such repairs or provide such temporary ways or guards as shall be acceptable to the proper authorities.

1.10 Cleanliness of the Work Site and Environs

Contractor shall keep the Work Site and adjacent areas clean at all times during performance of the Work and shall, upon completion of the Work, leave the Work Site and adjacent areas in a clean and orderly condition.

1.11 Damage to the Work, the Work Site, and Other Property

The Work and everything pertaining thereto shall be provided, performed, completed, and maintained at the sole risk and cost of Contractor from the Commencement Date until Final Payment. Contractor shall be fully responsible for the protection of all public and private property and all persons. Without limiting the foregoing, Contractor shall, at its own cost and expense, provide all permanent and temporary shoring, anchoring and bracing required by the nature of the Work in order to make all parts absolutely stable and rigid, even when such shoring, anchoring and bracing is not explicitly specified, and support and protect all buildings, bridges, roadways, conduits, wires, water pipes, gas pipes, sewers, pavements, curbs, sidewalks, fixtures and landscaping of all kinds and all other public or private property that may be encountered or endangered in providing, performing and completing the Work. Contractor shall have no claim against Owner because of any damage or loss to the Work or to Contractor's equipment, materials, or supplies from any cause whatsoever, including damage or loss due to simultaneous work by others. Contractor shall, promptly and without charge to Owner, repair or replace, to the satisfaction of Owner, any damage done to, and any loss suffered by, the Work and any damage done to, and any loss suffered by, the Work Site or other property as a result of the Work. Notwithstanding any other provision of this Contract, Contractor's obligations under this Section shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of Owner or Contractor, to indemnify, hold harmless, or reimburse Contractor for the cost of any repair or replacement work required by this Section.

1.12 Subcontractors and Suppliers

A. Approval and Use of Subcontractors and Suppliers. Contractor shall perform the Work with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by Owner in writing. All subcontractors, suppliers, and subcontracts used by Contractor shall be acceptable to, and approved in advance by, Owner. Owner's approval of any subcontractor, supplier, and subcontract shall not relieve Contractor of full responsibility and liability for the provision, performance, and completion of the Work in full compliance with, and as required by or pursuant to, this Contract. All Work performed under any subcontract shall be subject to all of the provisions of this Contract in the same manner as if performed by employees of

Contractor. Every reference in this Contract to "Contractor" shall be deemed also to refer to all subcontractors and suppliers of Contractor. Every subcontract shall include a provision binding the subcontractor or supplier to all provisions of this Contract.

B. Removal of Subcontractors and Suppliers. If any subcontractor or supplier fails to perform the part of the Work undertaken by it in a manner satisfactory to Owner, Contractor shall immediately upon notice from Owner terminate such subcontractor or supplier. Contractor shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such termination.

1.13 Simultaneous Work By Others

Owner shall have the right to perform or have performed such other work as Owner may desire in, about, or near the Work Site during the performance of the Work by Contractor. Contractor shall make every reasonable effort to perform the Work in such manner as to enable both the Work and such other work to be completed without hindrance or interference from each other. Contractor shall afford Owner and other contractors reasonable opportunity for the execution of such other work and shall properly coordinate the Work with such other work.

1.14 Occupancy Prior to Final Payment

Owner shall have the right, at its election, to occupy, use, or place in service any part of the Work prior to Final Payment. Such occupancy, use, or placement in service shall be conducted in such manner as not to damage any of the Work or to unreasonably interfere with the progress of the Work. No such occupancy, use, or placement in service shall be construed as an acceptance of any of the Work or a release or satisfaction of Contractor's duty to insure and protect the Work, not shall it, unless conducted in an unreasonable manner, be considered as an interference with Contractor's provision, performance, or completion of the Work.

1.15 Owner's Right to Terminate or Suspend Work for Convenience

A. Termination or Suspension for Convenience. Owner shall have the right, for its convenience, to terminate or suspend the Work in whole or in part at any time by written notice to Contractor. Every such notice shall state the extent and effective date of such termination or suspension. On such effective date, Contractor shall, as and to the extent directed, stop Work under this Contract, cease all placement of further orders or subcontracts, terminate or suspend Work under existing orders and subcontracts, cancel any outstanding orders or subcontracts that may be cancelled, and take any action necessary to protect any property in its possession in which Owner has or may acquire any interest and to dispose of such property in such manner as may be directed by Owner.

B. Payment for Completed Work. In the event of any termination pursuant to Subsection 1.15A above, Owner shall pay Contractor (1) such direct costs,

excluding overhead, as Contractor shall have paid or incurred for all Work done in compliance with, and as required by or pursuant to, this Contract up to the effective date of termination together with ten percent of such costs for overhead and profit; and (2) such other costs pertaining to the Work, exclusive of overhead and profit, as Contractor may have reasonably and necessarily incurred as the result of such termination. Any such payment shall be offset by any prior payment or payments and shall be subject to Owner's rights to withhold and deduct as provided in this Contract.

ARTICLE II **CHANGES AND DELAYS**

2.1 Changes

Owner shall have the right, by written order executed by Owner, to make changes in the Contract, the Work, the Work Site, and the Contract Time ("Change Order"). If any Change Order causes an increase or decrease in the amount of the Work, an equitable adjustment in the Contract Price or Contract Time may be made. All claims by Contractor for an equitable adjustment in either the Contract Price or the Contract Time shall be made within two business days following receipt of such Change Order, and shall, if not made prior to such time, be conclusively deemed to have been waived. No decrease in the amount of the Work caused by any Change Order shall entitle Contractor to make any claim for damages, anticipated profits, or other compensation.

2.2 Delays

A. Extensions for Unavoidable Delays. For any delay that may result from causes that could not be avoided or controlled by Contractor, Contractor shall, upon timely written application, be entitled to issuance of a Change Order providing for an extension of the Contract Time for a period of time equal to the delay resulting from such unavoidable cause. No extension of the Contract Time shall be allowed for any other delay in completion of the Work.

B. No Compensation for Delays. No payment, compensation, damages, or adjustment of any kind, other than the extension of the Contract Time provided in Subsection 2.2A above, shall be made to, or claimed by, Contractor because of hindrances or delays from any cause in the commencement, prosecution, or completion of the Work, whether caused by Owner or any other party and whether avoidable or unavoidable.

ARTICLE III **CONTRACTOR'S RESPONSIBILITY FOR DEFECTIVE WORK**

3.1 Inspection; Testing; Correction of Defects

A. Inspection. Until Final Payment, all parts of the Work shall be subject to inspection and testing by Owner or its designated representatives. Contractor shall furnish, at its own expense, all reasonable access, assistance, and facilities required by Owner for such inspection and testing.

B. Re-Inspection. Re-inspection and re-testing of any Work may be ordered by Owner at any time, and, if so ordered, any covered or closed Work shall be uncovered or opened by Contractor. If the Work is found to be in full compliance with this Contract, then Owner shall pay the cost of uncovering, opening, re-inspecting, or re-testing, as the case may be. If such Work is not in full compliance with this Contract, then Contractor shall pay such cost.

C. Correction. Until Final Payment, Contractor shall, promptly and without charge, repair, correct, or replace all or any part of the Work that is defective, damaged, flawed, or unsuitable or that in any way fails to conform strictly to the requirements of this Contract.

3.2 Warranty of Work

A. Scope of Warranty. Contractor warrants that the Work and all of its components shall be free from defects and flaws in design, workmanship, and materials; shall strictly conform to the requirements of this Contract; and shall be fit, sufficient and suitable for the purposes expressed in, or reasonably inferred from, this Contract. The warranty herein expressed shall be in addition to any other warranties expressed in this Contract, or expressed or implied by law, which are hereby reserved unto Owner.

B. Repairs; Extension of Warranty. Contractor shall, promptly and without charge, correct any failure to fulfill the above warranty that may be discovered or develop at any time within one year after Final Payment or such longer period as may be prescribed by law. The above warranty shall be extended automatically to cover all repaired and replacement parts and labor provided or performed under such warranty and Contractor's obligation to correct Work shall be extended for a period of one year from the date of such repair or replacement. The time period established in this Subsection 3.2B relates only to the specific obligation of Contractor to correct Work and shall not be construed to establish a period of limitation with respect to other obligations that Contractor has under this Contract.

C. Subcontractor and Supplier Warranties. Whenever a subcontractor or supplier is required to provide a guaranty or warranty, Contractor shall be solely responsible for obtaining said guaranty or warranty in form satisfactory to Owner and assigning said warranty or guaranty to Owner. Acceptance of any assigned warranties or guaranties by Owner shall be a precondition to Final Payment and shall not relieve Contractor of any of its guaranty or warranty obligations under this Contract.

3.3 Owner's Right to Correct

If, within two business days after Owner gives Contractor notice of any defect, damage, flaw, unsuitability, nonconformity, or failure to meet warranty subject to correction by Contractor pursuant to Section 3.1 or Section 3.2 of this Contract, Contractor neglects to make, or undertake with due diligence to make, the necessary corrections, then Owner shall be entitled to make, either with its own forces or with contract forces, the

corrections and to recover from Contractor all resulting costs, expenses, losses, or damages, including attorneys' fees and administrative expenses.

ARTICLE IV

FINANCIAL ASSURANCES

4.1 Bonds

Contemporaneous with Contractor's execution of this Contract, Contractor shall provide a Performance Bond and a Labor and Material Payment Bond, on forms provided by, or otherwise acceptable to, Owner, from a surety company licensed to do business in the State of Illinois with a general rating of A minus and a financial size category of Class X or better in Best's Insurance Guide, each in the penal sum of the Contract Price ("Bonds"). Contractor shall, at all times while providing, performing, or completing the Work, including, without limitation, at all times while correcting any failure to meet warranty pursuant to Section 3.2 of this Contract, maintain and keep in force, at Contractor's expense, the Bonds required hereunder.

4.2 Insurance

Contemporaneous with Contractor's execution of this Contract, Contractor shall provide certificates and policies of insurance evidencing the minimum insurance coverages and limits set forth in Subsection 4.2A. below. For good cause shown, Owner may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as Owner may impose in the exercise of its sole discretion. Such policies shall be in a form, and from companies, acceptable to Owner. Such insurance shall provide that no change, modification in, or cancellation of any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to Owner. Contractor shall, at all times while providing, performing, or completing the Work, including, without limitation, at all times while correcting any failure to meet warranty pursuant to Section 3.2 of this Contract, maintain and keep in force, at Contractor's expense, the minimum insurance coverages and limits set forth in Subsection 4.2A. below.

A. Minimum Coverages. Unless otherwise provided in the Special Provisions of Contract, Contractor shall, prior to and at all times while providing, performing, or completing the Work, procure, maintain, and keep in force, at Contractor's expense, at least the following minimum insurance coverages:

1. Workmen's Compensation: The Contractor is required to carry, with a company authorized under the laws of the State of Illinois, a policy for protection against liability under the Workman's Compensation and the Occupational Disease Statutes of the State of Illinois.
2. Comprehensive Motor Vehicle Liability Insurance: The Contractor shall carry a policy under a

comprehensive for to insure the entire automobile liability for the operation with limits of not less than \$1,000,000 each accident for bodily injury and not less than \$1,000,000 each accident for property damage liability.

3. Comprehensive General Liability: The Contractor shall carry a comprehensive general liability policy for all operations with limits of not less than \$1,000,000 per claim, and not less than \$2,000,000 aggregate.
4. Excess Umbrella Liability: The Contractor shall carry an excess umbrella liability policy for all operations with limits of not less than \$5,000,000 per claim, and not less than \$5,000,000 aggregate.

All such insurance must include an endorsement whereby the insurer agrees to notify the Owner at least 30 days prior to non-renewal, reduction, or cancellation of any policy. The Contractor shall cease operations on the project if the insurance is cancelled or reduced below the required amount of coverage.

B. Additional Coverages. The insurance coverages and limits required by Section 4.2.A. above shall be deemed to be minimum coverages and limits and shall not be construed in any way as a limitation on Contractor's duty to carry adequate insurance as required by section 4.2 above or on Contractor's liability for losses and damages under this Contract. Contractor shall at all times carry such additional coverages and limits as may be necessary to fully comply with this contract.

C. Subcontractor Insurance. Unless otherwise provided in the Special Provisions of Contract or unless otherwise approved by Owner, Contractor shall not allow any Subcontractor to commence or continue any part of the Work until and unless such Subcontractor provides and has in force insurance coverages equal to those of Contractor by this Section.

4.3 Indemnification

Contractor shall indemnify, save harmless, and defend Owner against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, out of or in connection with Contractor's performance of, or failure to perform, the Work or any part thereof, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of Contractor, except to the extent caused by the sole negligence of Owner.

ARTICLE V **PAYMENT**

5.1 Contract Price

Owner shall pay to Contractor, in accordance with and subject to the terms and conditions set forth in this Article V, and Contractor shall accept in full satisfaction for providing, performing, and completing the Work, a not-to-exceed amount of \$_____ (the "Contract Price"), subject to any additions, deductions, or withholdings provided for in this Contract.

5.2 Taxes and Benefits

Owner is exempt from and shall not be responsible to pay, or reimburse Contractor for, any state or local sales, use, or excise taxes. The Contract Price includes all other applicable federal, state, and local taxes of every kind and nature applicable to the Work as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or other similar benefits. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, or premium is hereby waived and released by Contractor.

5.3 Progress Payments

A. Payment in Installments. The Contract Price shall be paid in installments in the manner set forth in **Exhibit C** ("Progress Payments").

B. Pay Requests. Contractor shall, as a condition precedent to its right to receive each Progress Payment, submit to Owner a pay request in the form provided by Owner ("Pay Request"). The first Pay Request shall be submitted not sooner than 30 days following commencement of the Work. Owner may, by written notice to Contractor, designate a specific day of each month on or before which Pay Requests must be submitted. Each Pay Request shall include (a) Contractor's certification of the value of, and partial or final waivers of lien covering, all Work for which payment is then requested and (b) Contractor's certification that all prior Progress Payments have been properly applied to the payment or reimbursement of the costs with respect to which they were paid.

C. Work Entire. This Contract and the Work are entire and the Work as a whole is of the essence of this Contract. Notwithstanding any other provision of this Contract, each and every part of this Contract and of the Work are interdependent and common to one another and to Owner's obligation to pay all or any part of the Contract Price or any other consideration for the Work. Any and all Progress Payments made pursuant to this Article are provided merely for the convenience of Contractor and for no other purpose.

5.4 Final Acceptance and Final Payment

A. Notice of Completion. When the Work has been completed and is ready in all respects for acceptance by Owner, Contractor shall notify Owner and request a

final inspection ("Notice of Completion"). Contractor's Notice of Completion shall be given sufficiently in advance of the Completion Date to allow for scheduling of the final inspection and for completion or correction before the Completion Date of any items identified by such inspection as being defective, damaged, flawed, unsuitable, nonconforming, incomplete, or otherwise not in full compliance with, or as required by or pursuant to, this Contract ("Punch List Work").

B. Punch List and Final Acceptance. The Work shall be finally accepted when, and only when, the whole and all parts thereof shall have been completed to the satisfaction of Owner in full compliance with, and as required by or pursuant to, this Contract. Upon receipt of Contractor's Notice of Completion, Owner shall make a review of the Work and notify Contractor in writing of all Punch List Work, if any, to be completed or corrected. Following Contractor's completion or correction of all Punch List Work, Owner shall make another review of the Work and prepare and deliver to Contractor either a written notice of additional Punch List Work to be completed or corrected or a written notice of final acceptance of the Work ("Final Acceptance").

C. Final Payment. As soon as practicable after Final Acceptance, Contractor shall submit to Owner a properly completed final Pay Request in the form provided by Owner ("Final Pay Request"). Owner shall pay to Contractor the balance of the Contract Price, after deducting therefrom all charges against Contractor as provided for in this Contract ("Final Payment"). Final Payment shall be made not later than 60 days after Owner approves the Final Pay Request. The acceptance by Contractor of Final Payment shall operate as a full and complete release of Owner of and from any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses of, by, or to Contractor for anything done, furnished for, arising out of, relating to, or in connection with the Work or for or on account of any act or neglect of Owner arising out of, relating to, or in connection with the Work.

5.5 Liens

A. Title. Nothing in this Contract shall be construed as vesting in Contractor any right of property in any equipment, materials, supplies, and other items provided under this Contract after they have been installed in, incorporated into, attached to, or affixed to, the Work or the Work Site. All such equipment, materials, supplies, and other items shall, upon being so installed, incorporated, attached or affixed, become the property of Owner, but such title shall not release Contractor from its duty to insure and protect the Work in accordance with the requirements of this Contract.

B. Waivers of Lien. Contractor shall, from time to time at Owner's request and in any event prior to Final Payment, furnish to Owner such receipts, releases, affidavits, certificates, and other evidence as may be necessary to establish, to the reasonable satisfaction of Owner, that no lien against the Work or the public funds held by Owner exists in favor of any person whatsoever for or by reason of any equipment, material, supplies, or other item furnished, labor performed, or other thing done in connection with the Work or this Contract ("Lien") and that no right to file any Lien exists in favor of any person whatsoever.

C. Removal of Liens. If at any time any notice of any Lien is filed, then Contractor shall, promptly and without charge, discharge, remove, or otherwise dispose of such Lien. Until such discharge, removal, or disposition, Owner shall have the right to retain from any money payable hereunder an amount that Owner, in its sole judgment, deems necessary to satisfy such Lien and to pay the costs and expenses, including attorneys' fees and administrative expenses, of any actions brought in connection therewith or by reason thereof.

D. Protection of Owner Only. This Section shall not operate to relieve Contractor's surety or sureties from any of their obligations under the Bonds, nor shall it be deemed to vest any right, interest, or entitlement in any subcontractor or supplier. Owner's retention of funds pursuant to this Section shall be deemed solely for the protection of its own interests pending removal of such Liens by Contractor, and Owner shall have no obligation to apply such funds to such removal but may, nevertheless, do so where Owner's interests would thereby be served.

5.6 Deductions

A. Owner's Right to Withhold. Notwithstanding any other provision of this Contract and without prejudice to any of Owner's other rights or remedies, Owner shall have the right at any time or times, whether before or after approval of any Pay Request, to deduct and withhold from any Progress or Final Payment that may be or become due under this Contract such amount as may reasonably appear necessary to compensate Owner for any actual or prospective loss due to: (1) Work that is defective, damaged, flawed, unsuitable, nonconforming, or incomplete; (2) damage for which Contractor is liable under this Contract; (3) state or local sales, use, or excise taxes from which Owner is exempt; (4) Liens or claims of Lien regardless of merit; (5) claims of subcontractors, suppliers, or other persons regardless of merit; (6) delay in the progress or completion of the Work; (7) inability of Contractor to complete the Work; (8) failure of Contractor to properly complete or document any Pay Request; (9) any other failure of Contractor to perform any of its obligations under this Contract; or (10) the cost to Owner, including attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of Owner's remedies set forth in Section 6.3 of this Contract.

B. Use of Withheld Funds. Owner shall be entitled to retain any and all amounts withheld pursuant to Subsection 5.6A above until Contractor shall have either performed the obligations in question or furnished security for such performance satisfactory to Owner. Owner shall be entitled to apply any money withheld or any other money due Contractor under this Contract to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, attorneys' fees and administrative expenses incurred, suffered, or sustained by Owner and chargeable to Contractor under this Contract.

ARTICLE VI **DISPUTES AND REMEDIES**

6.1 Dispute Resolution Procedure

A. Notice of Disputes and Objections. If Contractor disputes or objects to any requirement, direction, instruction, interpretation, determination, or decision of Owner, Contractor may notify Owner in writing of its dispute or objection and of the amount of any equitable adjustment to the Contract Price or Contract Time to which Contractor claims it will be entitled as a result thereof; provided, however, that Contractor shall, nevertheless, proceed without delay to perform the Work as required, directed, instructed, interpreted, determined, or decided by Owner, without regard to such dispute or objection. Unless Contractor so notifies Owner within two business days after receipt of such requirement, direction, instruction, interpretation, determination, or decision, Contractor shall be conclusively deemed to have waived all such disputes or objections and all claims based thereon.

B. Negotiation of Disputes and Objections. To avoid and settle without litigation any such dispute or objection, Owner and Contractor agree to engage in good faith negotiations. Within three business days after Owner's receipt of Contractor's written notice of dispute or objection, a conference between Owner and Contractor shall be held to resolve the dispute. Within three business days after the end of the conference, Owner shall render its final decision, in writing, to Contractor. If Contractor objects to the final decision of Owner, then it shall, within three business days, give Owner notice thereof and, in such notice, shall state its final demand for settlement of the dispute. Unless Contractor so notifies Owner, Contractor shall be conclusively deemed (1) to have agreed to and accepted Owner's final decision and (2) to have waived all claims based on such final decision.

6.2 Contractor's Remedies

If Owner fails or refuses to satisfy a final demand made by Contractor pursuant to Section 6.1 of this Contract, or to otherwise resolve the dispute which is the subject of such demand to the satisfaction of Contractor, within ten days following receipt of such demand, then Contractor shall be entitled to pursue such remedies, not inconsistent with the provisions of this Contract, as it may have in law or equity.

6.3 Owner's Remedies

If it should appear at any time prior to Final Payment that Contractor has failed or refused to prosecute, or has delayed in the prosecution of, the Work with diligence at a rate that assures completion of the Work in full compliance with the requirements of this Contract on or before the Completion Date, or has attempted to assign this Contract or Contractor's rights under this Contract, either in whole or in part, or has falsely made any representation or warranty in this Contract, or has otherwise failed, refused, or delayed to perform or satisfy any other requirement of this Contract or has failed to pay its debts as they come due ("Event of Default"), and has failed to cure any such Event of Default within five business days after Contractor's receipt of written notice of such Event of Default, then Owner shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Owner may require Contractor, within such reasonable time as may be fixed by Owner, to

complete or correct all or any part of the Work that is defective, damaged, flawed, unsuitable, nonconforming, or incomplete; to remove from the Work Site any such Work; to accelerate all or any part of the Work; and to take any or all other action necessary to bring Contractor and the Work into strict compliance with this Contract.

2. Owner may perform or have performed all Work necessary for the accomplishment of the results stated in Paragraph 1 above and withhold or recover from Contractor all the cost and expense, including attorneys' fees and administrative costs, incurred by Owner in connection therewith.
3. Owner may accept the defective, damaged, flawed, unsuitable, nonconforming, incomplete, or dilatory Work or part thereof and make an equitable reduction in the Contract Price.
4. Owner may terminate this Contract without liability for further payment of amounts due or to become due under this Contract.
5. Owner may, without terminating this Contract, terminate Contractor's rights under this Contract and, for the purpose of completing or correcting the Work, evict Contractor and take possession of all equipment, materials, supplies, tools, appliances, plans, specifications, schedules, manuals, drawings, and other papers relating to the Work, whether at the Work Site or elsewhere, and either complete or correct the Work with its own forces or contracted forces, all at Contractor's expense.
6. Upon any termination of this Contract or of Contractor's rights under this Contract, and at Owner's option exercised in writing, any or all subcontracts and supplier contracts of Contractor shall be deemed to be assigned to Owner without any further action being required, but Owner shall not thereby assume any obligation for payments due under such subcontracts and supplier contracts for any Work provided or performed prior to such assignment.
7. Owner may withhold from any Progress Payment or Final Payment, whether or not previously approved,

or may recover from Contractor, any and all costs, including attorneys' fees and administrative expenses, incurred by Owner as the result of any Event of Default or as a result of actions taken by Owner in response to any Event of Default.

8. Owner may recover any damages suffered by Owner.

6.4 Owner's Special Remedy for Delay

If the Work is not completed by Contractor, in full compliance with, and as required by or pursuant to, this Contract, within the Contract Time as such time may be extended by Change Order, then Owner may invoke its remedies under Section 6.3 of this Contract or may, in the exercise of its sole and absolute discretion, permit Contractor to complete the Work but charge to Contractor, and deduct from any Progress or Final Payments, whether or not previously approved, administrative expenses and costs for each day completion of the Work is delayed beyond the Completion Date, as well as any additional damages caused by such delay.

6.5 Terminations and Suspensions Deemed for Convenience

Any termination or suspension of Contractor's rights under this Contract for an alleged default that is ultimately held unjustified shall automatically be deemed to be a termination or suspension for the convenience of Owner under Section 1.15 of this Contract.

ARTICLE VII LEGAL RELATIONSHIPS AND REQUIREMENTS

7.1 Binding Effect

This Contract shall be binding upon Owner and Contractor and upon their respective heirs, executors, administrators, personal representatives, and permitted successors and assigns. Every reference in this Contract to a party shall also be deemed to be a reference to the authorized officers, employees, agents, and representatives of such party.

7.2 Relationship of the Parties

Contractor shall act as an independent contractor in providing and performing the Work. Nothing in, nor done pursuant to, this Contract shall be construed (1) to create the relationship of principal and agent, partners, or joint venturers between Owner and Contractor or (2) except as provided in Paragraph 6.3(6) above, to create any relationship between Owner and any subcontractor or supplier of Contractor.

7.3 No Collusion/Prohibited Interests

Contractor hereby represents that the only persons, firms, or corporations interested in this Contract as principals are those disclosed to Owner prior to the execution

of this Contract, and that this Contract is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Contractor has, in procuring this Contract, colluded with any other person, firm, or corporation, then Contractor shall be liable to Owner for all loss or damage that Owner may suffer thereby, and this Contract shall, at Owner's option, be null and void.

Contractor hereby represents and warrants that neither Contractor nor any person affiliated with Contractor or that has an economic interest in Contractor or that has or will have an interest in the Work or will participate, in any manner whatsoever, in the Work is acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism, and neither Contractor nor any person affiliated with Contractor or that has an economic interest in Contractor or that has or will have an interest in the Work or will participate, in any manner whatsoever, in the Work is, directly or indirectly, engaged in, or facilitating, the Work on behalf of any such person, group, entity or nation.

7.4 Assignment

Contractor shall not (1) assign this Contract in whole or in part, (2) assign any of Contractor's rights or obligations under this Contract, or (3) assign any payment due or to become due under this Contract without the prior express written approval of Owner, which approval may be withheld in the sole and unfettered discretion of Owner; provided, however, that Owner's prior written approval shall not be required for assignments of accounts, as defined in the Illinois Commercial Code, if to do so would violate Section 9-318 of the Illinois Commercial Code, 810 ILCS 5/9-318. Owner may assign this Contract, in whole or in part, or any or all of its rights or obligations under this Contract, without the consent of Contractor.

7.5 Confidential Information

All information supplied by Owner to Contractor for or in connection with this Contract or the Work shall be held confidential by Contractor and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Work.

7.6 No Waiver

No examination, inspection, investigation, test, measurement, review, determination, decision, certificate, or approval by Owner, nor any order by Owner for the payment of money, nor any payment for, or use, occupancy, possession, or acceptance of, the whole or any part of the Work by Owner, nor any extension of time granted by Owner, nor any delay by Owner in exercising any right under this Contract, nor any other act or omission of Owner shall constitute or be deemed to be an acceptance of any defective, damaged, flawed, unsuitable, nonconforming or incomplete Work, equipment, materials, or supplies, nor operate to waive or otherwise diminish the effect of any warranty or

representation made by Contractor; or of any requirement or provision of this Contract; or of any remedy, power, or right of Owner.

7.7 No Third Party Beneficiaries

No claim as a third party beneficiary under this Contract by any person, firm, or corporation other than Contractor shall be made or be valid against Owner.

7.8 Notices

All notices required or permitted to be given under this Contract shall be in writing and shall be deemed received by the addressee thereof when delivered in person on a business day at the address set forth below or on the third business day after being deposited in any main or branch United States post office, for delivery at the address set forth below by properly addressed, postage prepaid, certified or registered mail, return receipt requested.

Notices and communications to Owner shall be addressed to, and delivered at, the following address:

Village of Gilberts
87 Galligan Road
Gilberts, Illinois
Attention: Village Administrator

Notices and communications to Contractor shall be addressed to, and delivered at, the following address:

Phoenix & Associates, Inc.
94 Railroad Street
Gilberts, Illinois 60136
Attention: George Kanagin

The foregoing shall not be deemed to preclude the use of other non-oral means of notification or to invalidate any notice properly given by any such other non-oral means.

By notice complying with the requirements of this Section, Owner and Contractor each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change of address shall be effective until actually received.

7.9 Governing Laws

This Contract and the rights of Owner and Contractor under this Contract shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

7.10 Changes in Laws

Unless otherwise explicitly provided in this Contract, any reference to laws shall include such laws as they may be amended or modified from time to time.

7.11 Compliance with Laws and Grants

Contractor shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Work is provided, performed, and completed in accordance with all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing the Work, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Prevailing Wage Act, 820 ILCS 130/0.01 et seq. (in furtherance of which, a copy of Owner's ordinance ascertaining the prevailing rate of wages, in effect as of the date of this Contract, has been attached as **Exhibit D** to this Contract; if the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid, the revised rate shall apply to this Contract); any other prevailing wage laws; the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes requiring preference to laborers of specified classes; the Illinois Steel Products Procurement Act, 30 ILCS 565/1 et seq.; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and the Public Works Discrimination Act, 775 ILCS 10/1 et seq.; and any statutes regarding safety or the performance of the Work, including the Illinois Structural Work Act, the Illinois Underground Utility Facilities Damage Prevention Act, and the Occupational Safety and Health Act. Contractor shall also comply with all conditions of any federal, state, or local grant received by Owner or Contractor with respect to this Contract or the Work.

Contractor shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Contractor's, or its subcontractors' or suppliers', performance of, or failure to perform, the Work or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

To the extent that the Prevailing Wage Act applies, it is the Contractor's obligation to pay and require every Subcontractor to pay prevailing wages as established by the Illinois Department of Labor for each craft or type of work needed to execute the contract in accordance with 820 ILCS 130/0.01 et seq. The Contractor shall prominently post the current schedule of prevailing wages at the Contract site and shall notify immediately in writing all of its Subcontractors of all changes in the schedule of prevailing wages. Any increases in costs to the Contractor due to changes in the prevailing rate of wage during the terms of any contract shall be at the expense of the Contractor and not at the expense of the Owner. The change order shall be computed using the prevailing wage rates applicable at the time the change order work is scheduled to be performed. The Contractor shall be solely responsible to maintain accurate records as required by the prevailing wage statute and to obtain and furnish all such certified payroll records to the Owner as required by Statute. In

lieu of certified payroll, Contractor shall submit a letter setting forth the basis upon which Contractor has concluded the Act does not apply. The Contractor shall be solely liable for paying the difference between prevailing wages and any wages actually received by laborers, workmen and/or mechanics engaged in the Work and in every way defend and indemnify the Owner against any claims arising under or related to the payment of wages in accordance with the Prevailing Wage Act.

7.12 Compliance with Patents

A. Assumption of Costs, Royalties, and Fees. Contractor shall pay or cause to be paid all costs, royalties, and fees arising from the use on, or the incorporation into, the Work, of patented equipment, materials, supplies, tools, appliances, devices, processes, or inventions.

B. Effect of Contractor Being Enjoined. Should Contractor be enjoined from furnishing or using any equipment, materials, supplies, tools, appliances, devices, processes, or inventions supplied or required to be supplied or used under this Contract, Contractor shall promptly offer substitute equipment, materials, supplies, tools, appliances, devices, processes, or inventions in lieu thereof, of equal efficiency, quality, suitability, and market value, for review by Owner. If Owner should disapprove the offered substitutes and should elect, in lieu of a substitution, to have supplied, and to retain and use, any such equipment, materials, supplies, tools, appliances, devices, processes, or inventions as may by this Contract be required to be supplied, Contractor shall pay such royalties and secure such valid licenses as may be requisite and necessary for Owner to use such equipment, materials, supplies, tools, appliances, devices, processes, or inventions without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. Should Contractor neglect or refuse to make any approved substitution promptly, or to pay such royalties and secure such licenses as may be necessary, then Owner shall have the right to make such substitution, or Owner may pay such royalties and secure such licenses and charge the cost thereof against any money due Contractor from Owner or recover the amount thereof from Contractor and its surety or sureties notwithstanding that Final Payment may have been made.

7.13 Time

The Contract Time is of the essence of this Contract. Except where otherwise stated, references in this Contract to days shall be construed to refer to calendar days.

7.14 Severability

The provisions of this Contract shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Contract shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Contract shall be in any way affected thereby.

7.15 Entire Agreement

This Contract sets forth the entire agreement of Owner and Contractor with respect to the accomplishment of the Work and the payment of the Contract Price therefor, and there are no other understandings or agreements, oral or written, between Owner and Contractor with respect to the Work and the compensation therefor.

7.16 Amendments

No modification, addition, deletion, revision, alteration or other change to this Contract shall be effective unless and until such change is reduced to writing and executed and delivered by Owner and Contractor.

IN WITNESS WHEREOF, Owner and Contractor have caused this Contract to be executed in five original counterparts as of the day and year first written above.

Attest/Witness:

VILLAGE OF GILBERTS

By:_____

By:_____

Title:_____

Title: Village Administrator

Attest/Witness:

PHOENIX & ASSOCIATES

By:_____

By:_____

Title:_____

Title: _____

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

CONTRACTOR'S CERTIFICATION

_____, being first duly sworn on oath, deposes and states that all statements herein made are made on behalf of Contractor, that this deponent is authorized to make them, and that the statements contained herein are true and correct.

Contractor deposes, states, and certifies that Contractor is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or the amount of tax, as set forth in 65 ILCS 5/11-42.1-1; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq.; or (iii) a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001.

DATED this _____ day of _____, 2018.

Attest/Witness:

PHOENIX & ASSOCIATES

By:

By:

Title: _____

Title: _____

Subscribed and Sworn to
before me this _____ day
of _____, 2018.

My Commission Expires:

[SEAL]

Notary Public

Exhibit A

Work

[NEED TO DESCRIBE PROJECT]

Exhibit B

Plans

[ATTACH PLANS]

Exhibit C

Schedule for Payments

[NEED SCHEDULE]

Exhibit D

Prevailing Wages

[ATTACH VILLAGE'S 2018 PREVAILING WAGE ORDINANCE]

4851-9494-5645, v. 1

Exhibit A
Description of Project

Item 1:

A. Enrollment, Pre-Maintenance and Professional Services of Existing Conditions within the East Industrial Park, West Industrial Park and along Galligan Road.

Objective: Redirect stormwater runoff of roads and lowering subsurface groundwater and swale drainage prior to any future road improvements in turn extending the life expectancy of these road improvements.

1. Initiate maintenance and functionality of existing storm sewer utility structures
2. Inventory and enroll all swale drainage patterns, culverts, drive access areas, dock areas (including curbing, concrete, drainage, sump) drain tiles and location of septic/absorption fields
3. Provide for adjustments to traditional sanitary and potable water runs and structures in roadways and swale areas.
4. Phoenix has provided for an overall holistic regional drainage approach by posting 4.8-acre foot detention storage on behalf of the upcoming roadway program.
5. Perform a survey including five-point cross sections at approximately a 50 foot increment along the streets. (Five-point cross sections include ditch flow line and edge of pavement on each side of the center line and the center line).
6. Obtain spot elevations and pipe sizes for existing and new culverts
7. Obtain rim and invert elevations for existing and new drainage structures. Record pipe sizes
8. Depict above information on an aerial base sheet prepared at 1" equals 50' minimum

Cost: \$33,407.00

Item 2:

Drainage Design, MS4 Stormwater Detention Compliance/Construction Site Management

1. Provide inspections and monitor daily site activity
2. Record keeping of site compliance and project conditions
3. Supervise/oversee all contractor activity
4. Implement BMPs when required (Installation of silt fence, straw wattles and rock check dams)
5. Phoenix will convey out 4.8-acre feet of Tyler Creek Regional Storage commodities

Cost: \$112,800.00

Item 3:

Ditch and swale

1. 12,000 linear feet of ditch and swale
2. 19,000 linear feet of shoulder fine grading /conditioner
3. Topsoil placement
4. Approximately 40 cubic yards of Rip-Rap Stone placement
5. Traffic control

Cost: \$238,793.00

Item 4:

Pipe Installation (Includes Public Works Building)

1. Install 10 new catch basins
2. Install 3,000 total linear feet of pipe (includes stone to spring line and backfill)
 - a. +/- 300 linear feet of 24-inch smooth wall HDP pipe
 - b. +/- 2,200 linear feet of 18-inch smooth wall HDP pipe
 - c. +/- 500 linear feet of 12- inch smooth wall HDP pipe
3. Provide floodproofing
4. Adjust/repair approximately 13 existing storm sewer structures (includes culvert pipes)
5. Connect sub-pumps and various drain tiles
6. Traffic control to be provided

Cost: \$220,000.00

Total Cost for Items 1-4: \$605,000.00

LOCATION MAP

Gilberts 2018 Road Program
REL Job # 17-R0559

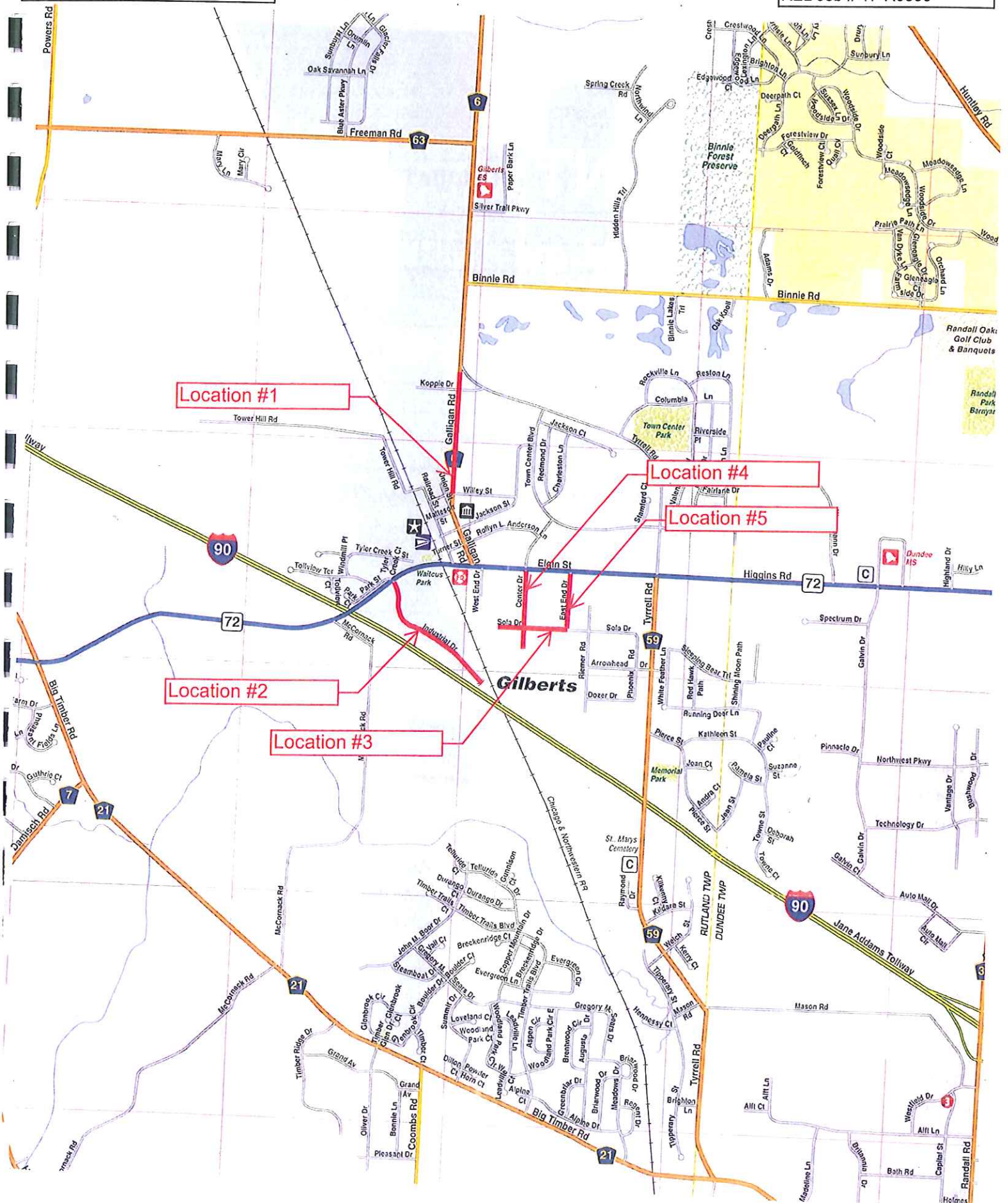


Exhibit C
Payment Schedule

Draw 1 -July 15, 2018

Item 1: 68% Completed= \$23,000.00 Due

Item 2: 86% Completed= \$96,000.00 Due

Item 3: No Draw

Item 4: No Draw

Total Draw 1= \$119,000.00

Contract Balance after Draw 1= \$486,000.00

Draw 2- August 15, 2018

30% of \$486,000.00= \$145,800.00

Draw 4- September 15,2018

30% of \$486,000.00 = \$145,800.00

Draw 5- October 15, 2018- Final Draw

40% of \$486,000.00= \$194,400.00

**Percentages are based on completion of scopes at the time of scheduled draws

Ordinance No. 09-2018

**An Ordinance Adopting Prevailing Wage Rates to be
Paid to Laborers, Mechanics and other Workers Performing
Construction of Public Works in the Village of Gilberts, Kane County, Illinois**

WHEREAS, The State of Illinois has enacted the Prevailing Wage Act, approved June 26, 1941, as amended, being 820 ILCS 130/0.01 through 130/12 (the "Act"); and

WHEREAS, the Act requires that during the month of June of each calendar year the Board of Trustees of the Village of Gilberts (the "Village") investigate and ascertain the prevailing rate of wages, as defined in said Act, in the "locality" of the Village for laborers, mechanics and other workers performing construction of public works for the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS, AS FOLLOWS:

Section 1: To the extend and as required by the Act, the general prevailing rate of wages in this locality for laborers, mechanics and other workers engaged in the construction of public works coming under the jurisdiction of the Village is hereby ascertained to be the same as the prevailing rate of wages for construction in Kane County as determined by the Department of Labor of the State of Illinois (the "Department") as of June 1, 2018. At such time as the department of Labor issues those prevailing wage rates, the Village Clerk will append those rates hereto.

As required by said Act, any and all revisions of the prevailing rate of wages by the Department shall supersede the Department's June determination and apply to any and all public works construction undertaken by the Village. The definition of any terms appearing in this Ordinance which are used in the Act shall be the same as in the Act.

Section 2: Nothing herein contained is intended to apply nor shall be construed to apply said prevailing rate of wages as herein ascertained to any work or employment performed on behalf of this Village except public works construction to the extent required by the Act.

Section 3: If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance.

Section 4: All Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5: The Village Clerk shall publicly post or keep available for inspection by any interested part in the main office of this Village this determination of prevailing rate of wages. A copy of this determination or of the current revised determination of prevailing rate of wages then in effect shall be attached to all contract specifications.

Section 6: By July 12th, the Village Clerk shall file a certified copy of this Ordinance with the Department of Labor.

Section 7: Within thirty (30) days after filing the Village Clerk shall cause to be published in a newspaper of general circulation within the area a notice that this determination is effective and constitutes the determination of this public body.

Section 8: The Village Clerk shall mail a copy of this Ordinance to any employer, and to any association of employers and to any person or association of employees who have filed their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workers whose wages will be affected by such rates.

Section 9: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS 5th DAY OF JUNE _____, 2018

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Dan Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Louis Hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elissa Kojzarek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Guy Zambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Rick Zirk	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 5th DAY OF June, 2018:




Village President Rick Zirk

ATTEST: 
Village Clerk Courtney Nicholas

Published: 6-6-18

**Prevailing Wage rates for
Kane County effective
Sept. 1, 2017**

Trade Title	Region	Type	Class	Base Wage	Fore- man Wage	M-F OT	OSA	OSH	H/W	Pension	Vacation	Training
ASBESTOS ABT-GEN	ALL	ALL		41.20	42.20	1.5	1.5	2	13.77	13.20	0.00	0.50
ASBESTOS ABT-MEC	ALL	BLD		37.46	39.96	1.5	1.5	2	11.62	11.06	0.00	0.72
BOILERMAKER	ALL	BLD		48.49	52.86	2	2	2	6.97	19.61	0.00	0.90
BRICK MASON	ALL	BLD		45.38	49.92	1.5	1.5	2	10.45	16.68	0.00	0.90
CARPENTER	ALL	ALL		46.35	48.35	1.5	1.5	2	11.79	18.88	0.00	0.63
CEMENT MASON	ALL	ALL		44.84	46.84	2	1.5	2	10.00	21.01	0.00	0.50
CERAMIC TILE FNSHER	ALL	BLD		38.56	38.56	1.5	1.5	2	10.65	11.18	0.00	0.68
COMMUNICATION TECH	N	BLD		38.15	40.55	1.5	1.5	2	12.18	12.77	0.00	0.67
COMMUNICATION TECH	S	BLD		40.15	42.55	1.5	1.5	2	11.51	11.24	0.00	1.41
ELECTRIC PWR EQMT OP	ALL	ALL		37.89	51.48	1.5	1.5	2	5.00	11.75	0.00	0.38
ELECTRIC PWR EQMT OP	ALL	Hwy		41.45	56.38	1.5	1.5	2	5.50	12.87	0.00	0.73
ELECTRIC PWR GRNDMAN	ALL	ALL		29.30	51.48	1.5	1.5	2	5.00	9.09	0.00	0.29
ELECTRIC PWR GRNDMAN	ALL	Hwy		32.00	56.38	1.5	1.5	2	5.50	9.92	0.00	0.66
ELECTRIC PWR LINEMAN	ALL	ALL		45.36	51.48	1.5	1.5	2	5.00	14.06	0.00	0.45
ELECTRIC PWR LINEMAN	ALL	Hwy		49.67	56.38	1.5	1.5	2	5.50	15.40	0.00	0.88
ELECTRIC PWR TRK DRV	ALL	ALL		30.34	51.48	1.5	1.5	2	5.00	9.40	0.00	0.30
ELECTRIC PWR TRK DRV	ALL	Hwy		33.14	56.38	1.5	1.5	2	5.50	10.29	0.00	0.59
ELECTRICIAN	N	ALL		47.29	51.69	1.5	1.5	2	14.58	15.87	0.00	0.95
ELECTRICIAN	S	BLD		47.72	51.97	1.5	1.5	2	14.81	13.36	0.00	1.67
ELEVATOR CONSTRUCTOR	ALL	BLD		51.94	58.43	2	2	2	14.43	14.96	4.16	0.90
FENCE ERECTOR	ALL	ALL		45.56	49.20	2	2	2	11.02	21.51	0.00	0.70
GLAZIER	ALL	BLD		42.45	43.95	1.5	1.5	2	14.04	20.14	0.00	0.94
HT/FROST INSULATOR	ALL	BLD		50.50	53.00	1.5	1.5	2	12.12	12.96	0.00	0.72
IRON WORKER	ALL	ALL		45.61	49.25	2	2	2	11.52	22.65	0.00	0.81
LABORER	ALL	ALL		41.20	41.95	1.5	1.5	2	13.77	13.20	0.00	0.50

LATHER	ALL	ALL	46.35	48.35	1.5	1.5	2	11.79	18.88	0.00	0.63
MACHINIST	ALL	BLD	47.56	50.06	1.5	1.5	2	7.05	8.95	1.85	1.47
MARBLE FINISHERS	ALL	ALL	33.95	33.95	1.5	1.5	2	10.45	15.52	0.00	0.47
MARBLE MASON	ALL	BLD	44.63	49.09	1.5	1.5	2	10.45	16.28	0.00	0.59
MATERIAL TESTER I	ALL	ALL	31.20	31.20	1.5	1.5	2	13.77	13.20	0.00	0.50
MATERIALS TESTER II	ALL	ALL	36.20	36.20	1.5	1.5	2	13.77	13.20	0.00	0.50
MILLWRIGHT	ALL	ALL	46.35	48.35	1.5	1.5	2	11.79	18.88	0.00	0.63
OPERATING ENGINEER	ALL	BLD	50.10	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	BLD	48.80	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	BLD	46.25	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	BLD	44.50	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	BLD	53.85	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	BLD	51.10	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	BLD	53.10	54.10	2	2	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	FLT	38.00	38.00	1.5	1.5	2	18.05	13.60	1.90	1.30
OPERATING ENGINEER	ALL	HWY	48.30	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	HWY	47.75	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	HWY	45.70	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	HWY	44.30	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	HWY	43.10	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	HWY	51.30	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
OPERATING ENGINEER	ALL	HWY	49.30	52.30	1.5	1.5	2	18.80	14.35	2.00	1.30
ORNAMNTL IRON	ALL	ALL	45.06	48.66	2	2	2	10.52	20.76	0.00	0.70
PAINTER	ALL	ALL	44.18	46.18	1.5	1.5	1.5	10.30	8.20	0.00	1.35
PAINTER SIGNS	ALL	BLD	37.45	42.05	1.5	1.5	2	2.60	3.18	0.00	0.00
PILEDRIIVER	ALL	ALL	46.35	48.35	1.5	1.5	2	11.79	18.88	0.00	0.63
PIPEFITTER	ALL	BLD	47.50	50.50	1.5	1.5	2	10.05	17.85	0.00	2.12
PLASTERER	ALL	BLD	42.75	45.31	1.5	1.5	2	14.00	15.71	0.00	0.89
PLUMBER	ALL	BLD	49.25	52.20	1.5	1.5	2	14.34	13.35	0.00	1.28
ROOFER	ALL	BLD	42.30	45.30	1.5	1.5	2	9.08	12.14	0.00	0.58

SHEETMETAL WORKER	ALL	BLD	45.77	47.77	1.5	1.5	2	10.65	14.10	0.00	0.82
SIGN HANGER	ALL	BLD	26.07	27.57	1.5	1.5	2	3.80	3.55	0.00	0.00
SPRINKLER FITTER	ALL	BLD	47.20	49.20	1.5	1.5	2	12.25	11.55	0.00	0.55
STEEL ERECTOR	ALL	ALL	45.56	49.20	2	2	2	11.02	21.51	0.00	0.70
STONE MASON	ALL	BLD	45.38	49.92	1.5	1.5	2	10.45	16.68	0.00	0.90
TERRAZZO FINISHER	ALL	BLD	40.54	40.54	1.5	1.5	2	10.65	12.76	0.00	0.73
TERRAZZO MASON	ALL	BLD	44.38	47.88	1.5	1.5	2	10.65	14.15	0.00	0.82
TILE MASON	ALL	BLD	45.49	49.49	1.5	1.5	2	10.65	13.88	0.00	0.86
TRAFFIC SAFETY WRKR	ALL	HWY	33.50	35.10	1.5	1.5	2	8.10	7.62	0.00	0.25
TRUCK DRIVER	ALL	ALL	36.30	36.85	1.5	1.5	2	8.10	9.76	0.00	0.15
TRUCK DRIVER	ALL	ALL	36.45	36.85	1.5	1.5	2	8.10	9.76	0.00	0.15
TRUCK DRIVER	ALL	ALL	36.65	36.85	1.5	1.5	2	8.10	9.76	0.00	0.15
TRUCK DRIVER	ALL	ALL	36.85	36.85	1.5	1.5	2	8.10	9.76	0.00	0.15
TUCCPOINTER	ALL	BLD	45.42	46.42	1.5	1.5	2	8.32	15.42	0.00	0.80

Legend

M-F OT Unless otherwise noted, OT pay is required for any hour greater than 8 worked each day, Mon through Fri. The number listed is the multiple of the base wage.

OSA Overtime pay required for every hour worked on Saturdays

OSH Overtime pay required for every hour worked on Sundays and Holidays

H/W Health/Welfare benefit

Explanations KANE COUNTY

ELECTRICIANS AND COMMUNICATIONS TECHNICIAN (NORTH) - Townships of Burlington, Campton, Dundee, Elgin, Hampshire, Plato, Rutland, St. Charles (except the West half of Sec. 26, all of Secs. 27, 33, and 34, South half of Sec. 28, West half of Sec. 35), Virgil and Valley View CCC and Elgin Mental Health Center.

The following list is considered as those days for which holiday rates of wages for work performed apply: New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day in some classifications/counties. Generally, any of these holidays which fall on a Sunday is celebrated on the following Monday. This then makes work performed on that Monday payable at the appropriate overtime rate for holiday pay. Common practice in a given local may alter certain days of celebration. If in doubt, please check with IDOL.

EXPLANATION OF CLASSES

ASBESTOS - GENERAL - removal of asbestos material/mold and hazardous materials from any place in a building, including mechanical systems where those mechanical systems are to be removed. This includes the removal of asbestos materials/mold and hazardous materials from ductwork or pipes in a building when the building is to be demolished at the time or at some close future date.

ASBESTOS - MECHANICAL - removal of asbestos material from mechanical systems, such as pipes, ducts, and boilers, where the mechanical systems are to remain.

CERAMIC TILE FINISHER

The grouting, cleaning, and polishing of all classes of tile, whether for interior or exterior purposes, all burned, glazed or unglazed products; all composition materials, granite tiles, warning detectable tiles, cement tiles, epoxy composite materials, pavers, glass, mosaics, fiberglass, and all substitute materials, for tile made in tile-like units; all mixtures in tile like form of cement, metals, and other materials that are for and intended for use as a finished floor surface, stair treads, promenade roofs, walks, walls, ceilings, swimming pools, and all other places where tile is to form a finished interior or exterior. The mixing of all setting mortars including but not limited to thin-set mortars, epoxies, wall mud, and any other sand and cement mixtures or adhesives when used in the preparation, installation, repair, or maintenance of tile and/or similar materials. The handling and unloading of all sand, cement, lime, tile, fixtures, equipment, adhesives, or any other materials to be used in the preparation, installation, repair, or maintenance of tile and/or similar materials. Ceramic Tile Finishers shall fill all joints and voids regardless of method on all tile work, particularly and especially after installation of said tile work. Application of any and all protective coverings to all types of tile installations including, but not be limited to, all soap compounds, paper products, tapes, and all polyethylene coverings, plywood, masonite, cardboard, and any new type of products that may be used to protect tile installations, Blastrac equipment, and all floor scarifying equipment used in preparing floors to receive tile. The clean up and removal of all waste and materials. All demolition of existing tile floors and walls to be re-tiled.

COMMUNICATIONS TECHNICIAN

Construction, installation, maintenance and removal of telecommunication facilities (voice, sound, data and video), telephone, security systems, fire alarm systems that are a component of a multiplex system and share a common cable, and data inside wire, interconnect, terminal equipment, central offices, PABX and equipment, micro waves, V-SAT, bypass, CATV, WAN (wide area network), LAN (local area networks), and ISDN (integrated system digital network), pulling of wire in raceways, but not the installation of raceways.

MARBLE FINISHER

Loading and unloading trucks, distribution of all materials (all stone, sand, etc.), stocking of floors with material, performing all rigging for heavy work, the handling of all material that may be needed for the installation of such materials, building of scaffolding, polishing if needed, patching, waxing of material if damaged, pointing up, caulking, grouting and cleaning of marble, holding water on diamond or Carborundum blade or saw for setters cutting, use of tub saw or any other saw needed for preparation of material, drilling of holes for wires that anchor material set by setters, mixing up of molding plaster for installation of material, mixing up thin set for the installation of material, mixing up of sand to cement for the installation of material and such other work as may be required in helping a Marble Setter in the handling of all material in the erection or installation of interior marble, slate, travertine, art marble, serpentine, alberene stone, blue stone, granite and other stones (meaning as to stone any foreign or domestic materials as are specified and used in building interiors and exteriors and customarily known as stone in the trade), carrara, sanionyx, vitrolite and similar opaque glass and the laying of all marble tile, terrazzo tile, slate tile and precast tile, steps, risers treads, base, or any other materials that may be used as substitutes for any of the aforementioned materials and which are used on interior and exterior which are installed in a similar manner.

MATERIAL TESTER I: Hand coring and drilling for testing of materials; field inspection of uncured concrete and asphalt.

MATERIAL TESTER II: Field inspection of welds, structural steel, fireproofing, masonry, soil, facade, reinforcing steel, formwork, cured concrete, and concrete and asphalt batch plants; adjusting proportions of bituminous mixtures.

OPERATING ENGINEER - BUILDING

Class 1. Asphalt Plant; Asphalt Spreader; Autograde; Backhoes with Caisson Attachment; Batch Plant; Benoto (requires Two Engineers); Boiler and Throttle Valve; Caisson Rigs; Central Redi-Mix Plant; Combination Back Hoe Front End-loader Machine; Compressor and Throttle Valve; Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Conveyor (Truck Mounted); Concrete Paver Over 27E cu. ft; Concrete Paver 27E cu. ft. and Under; Concrete Placer; Concrete Placing Boom; Concrete Pump (Truck Mounted); Concrete Tower; Cranes, All; Cranes, Hammerhead; Cranes, (GCI and similar Type); Creter Crane; Spider Crane; Crusher, Stone, etc.; Derricks, All; Derricks, Traveling; Formless Curb and Gutter Machine; Grader, Elevating; Grouting Machines; Heavy Duty Self-Propelled Transporter or Prime Mover; Highlift Shovels or Front Endloader 2-1/4 yd. and over; Hoists, Elevators, outside type rack and pinion and similar machines; Hoists, One, Two and Three Drum; Hoists, Two Tugger One Floor; Hydraulic Backhoes; Hydraulic Boom Trucks; Hydro Vac (and similar equipment); Locomotives, All; Motor Patrol; Lubrication Technician; Manipulators; Pile Drivers and Skid Rig; Post Hole Digger; Pre-Stress Machine; Pump Cretes Dual Ram; Pump Cretes: Squeeze Cretes-Screw Type Pumps; Gypsum Bulker and Pump; Raised and Blind Hole Drill; Roto Mill Grinder; Scoops - Tractor Drawn; Slip-Form Paver; Straddle Buggies; Operation of Tie Back Machine; Tournapull; Tractor with Boom and Side Boom; Trenching Machines.

Class 2. Boilers; Broom, All Power Propelled; Bulldozers; Concrete Mixer (Two Bag and Over); Conveyor, Portable; Forklift Trucks; Highlift Shovels or Front Endloaders under 2-1/4 yd.; Hoists, Automatic; Hoists, Inside Elevators; Hoists, Sewer Dragging Machine; Hoists, Tugger Single Drum;

Laser Screed; Rock Drill (Self-Propelled); Rock Drill (Truck Mounted); Rollers, All; Steam Generators; Tractors, All; Tractor Drawn Vibratory Roller; Winch Trucks with "A" Frame.

Class 3. Air Compressor; Combination Small Equipment Operator; Generators; Heaters, Mechanical; Hoists, Inside Elevators (remodeling or renovation work); Hydraulic Power Units (Pile Driving, Extracting, and Drilling); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Low Boys; Pumps, Well Points; Welding Machines (2 through 5); Winches, 4 Small Electric Drill Winches.

Class 4. Bobcats and/or other Skid Steer Loaders; Oilers; and Brick Forklift.

Class 5. Assistant Craft Foreman.

Class 6. Gradall.

Class 7. Mechanics; Welders.

OPERATING ENGINEERS - HIGHWAY CONSTRUCTION

Class 1. Asphalt Plant; Asphalt Heater and Planer Combination; Asphalt Heater Scarfire; Asphalt Spreader; Autograder/GOMACO or other similar type machines; ABG Paver; Backhoes with Caisson Attachment; Ballast Regulator; Belt Loader; Caisson Rigs; Car Dumper; Central Redi-Mix Plant; Combination Backhoe Front Endloader Machine, (1 cu. yd. Backhoe Bucket or over or with attachments); Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Placer; Concrete Tube Float; Cranes, all attachments; Cranes, Tower Cranes of all types; Creter Crane; Spider Crane; Crusher, Stone, etc.; Derricks, All; Derrick Boats; Derricks, Traveling; Dredges; Elevators, Outside type Rack & Pinion and Similar Machines; Formless Curb and Gutter Machine; Grader, Elevating; Grader, Motor Grader, Motor Patrol, Auto Patrol, Form Grader, Pull Grader, Subgrader; Guard Rail Post Driver Truck Mounted; Hoists, One, Two and Three Drum; Heavy Duty Self-Propelled Transporter or Prime Mover; Hydraulic Backhoes; Backhoes with shear attachments up to 40' of boom reach; Lubrication Technician; Manipulators; Mucking Machine; Pile Drivers and Skid Rig; Pre-Stress Machine; Pump Cretes Dual Ram; Rock Drill - Crawler or Skid Rig; Rock Drill - Truck Mounted; Rock/Track Tamper; Roto Mill Grinder; Slip-Form Paver; Snow Melters; Soil Test Drill Rig (Truck Mounted); Straddle Buggies; Hydraulic Telescoping Form (Tunnel); Operation of Tieback Machine; Tractor Drawn Belt Loader; Tractor Drawn Belt Loader (with attached pusher - two engineers); Tractor with Boom; Tractaire with Attachments; Traffic Barrier Transfer Machine; Trenching; Truck Mounted Concrete Pump with Boom; Raised or Blind Hole Drills (Tunnel Shaft); Underground Boring and/or Mining Machines 5 ft. in diameter and over tunnel, etc; Underground Boring and/or Mining Machines under 5 ft. in diameter; Wheel Excavator; Widener (APSCO).

Class 2. Batch Plant; Bituminous Mixer; Boiler and Throttle Valve; Bulldozers; Car Loader Trailing Conveyors; Combination Backhoe Front Endloader Machine (less than 1 cu. yd. Backhoe Bucket or over or with attachments); Compressor and Throttle Valve; Compressor, Common Receiver (3); Concrete Breaker or Hydro Hammer; Concrete Grinding Machine; Concrete Mixer or Paver 75 Series to and including 27 cu. ft.;

Concrete Spreader; Concrete Curing Machine, Burlap Machine, Belting Machine and Sealing Machine; Concrete Wheel Saw; Conveyor Muck Cars (Haglund or Similar Type); Drills, All; Finishing Machine - Concrete; Highlift Shovels or Front Endloader, Hoist - Sewer Dragging Machine; Hydraulic Boom Trucks (All Attachments); Hydro-Blaster; Hydro Excavating (excluding hose work); Laser Screed; All Locomotives, Dinky; Off-Road Hauling Units (including articulating) Non Self-Loading Ejection Dump; Pump Cretes: Squeeze Cretes - Screw Type Pumps, Gypsum Bulker and Pump; Roller, Asphalt; Rotary Snow Plows; Rototiller, Seaman, etc., self-propelled; Self-Propelled Compactor; Spreader - Chip - Stone, etc.; Scraper - Single/Twin Engine/Push and Pull; Scraper - Prime Mover in Tandem (Regardless of Size); Tractors pulling attachments, Sheeps Foot, Disc, Compactor, etc.; Tug Boats.

Class 3. Boilers; Brooms, All Power Propelled; Cement Supply Tender; Compressor, Common Receiver (2); Concrete Mixer (Two Bag and Over); Conveyor, Portable; Farm-Type Tractors Used for Mowing, Seeding, etc.; Forklift Trucks; Grouting Machine; Hoists, Automatic; Hoists, All Elevators; Hoists, Tugger Single Drum; Jeep Diggers; Low Boys; Pipe Jacking Machines; Post-Hole Digger; Power Saw, Concrete Power Driven; Pug Mills; Rollers, other than Asphalt; Seed and Straw Blower; Steam Generators; Stump Machine; Winch Trucks with "A" Frame; Work Boats; Tamper-Form-Motor Driven.

Class 4. Air Compressor; Combination - Small Equipment Operator; Directional Boring Machine; Generators; Heaters, Mechanical; Hydraulic Power Unit (Pile Driving, Extracting, or Drilling); Light Plants, All (1 through 5); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, Well Points; Vacuum Trucks (excluding hose work); Welding Machines (2 through 5); Winches, 4 Small Electric Drill Winches.

Class 5. SkidSteer Loader (all); Brick Forklifts; Oilers.

Class 6. Field Mechanics and Field Welders

Class 7. Dowell Machine with Air Compressor; Gradall and machines of like nature.

OPERATING ENGINEERS - FLOATING

Diver. Diver Wet Tender, Diver Tender, ROV Pilot, ROV Tender

TRAFFIC SAFETY - work associated with barricades, horses and drums used to reduce lane usage on highway work, the installation and removal of temporary lane markings, and the installation and removal of temporary road signs.

TRUCK DRIVER - BUILDING, HEAVY AND HIGHWAY CONSTRUCTION Class 1. Two or three Axle Trucks. A-frame Truck when used for transportation purposes; Air Compressors and Welding Machines, including those pulled by cars, pick-up trucks and tractors; Ambulances; Batch Gate Lockers; Batch Hopperman; Car and Truck Washers; Carry-alls; Fork Lifts and Hoisters; Helpers; Mechanics Helpers and Greasers; Oil Distributors 2-man operation; Pavement Breakers; Pole Trailer, up to 40 feet; Power Mower Tractors; Self-propelled Chip Spreader; Skipman;

Slurry Trucks, 2-man operation; Slurry Truck Conveyor Operation, 2 or 3 man; Teamsters; Unskilled Dumpman; and Truck Drivers hauling warning lights, barricades, and portable toilets on the job site.

Class 2. Four axle trucks; Dump Crets and Adgetors under 7 yards; Dumpsters, Track Trucks, Euclids, Hug Bottom Dump Turnapulls or Turntrailers when pulling other than self-loading equipment or similar equipment under 16 cubic yards; Mixer Trucks under 7 yards; Ready-mix Plant Hopper Operator, and Winch Trucks, 2 Axles.

Class 3. Five axle trucks; Dump Crets and Adgetors 7 yards and over; Dumpsters, Track Trucks, Euclids, Hug Bottom Dump Turntrailers or turnapulls when pulling other than self-loading equipment or similar equipment over 16 cubic yards; Explosives and/or Fission Material Trucks; Mixer Trucks 7 yards or over; Mobile Cranes while in transit; Oil Distributors, 1-man operation; Pole Trailer, over 40 feet; Pole and Expandable Trailers hauling material over 50 feet long; Slurry trucks, 1-man operation; Winch trucks, 3 axles or more; Mechanic--Truck Welder and Truck Painter.

Class 4. Six axle trucks; Dual-purpose vehicles, such as mounted crane trucks with hoist and accessories; Foreman; Master Mechanic; Self-loading equipment like P.B. and trucks with scoops on the front.

TERRAZZO FINISHER

The handling of sand, cement, marble chips, and all other materials that may be used by the Mosaic Terrazzo Mechanic, and the mixing, grinding, grouting, cleaning and sealing of all Marble, Mosaic, and Terrazzo work, floors, base, stairs, and wainscoting by hand or machine, and in addition, assisting and aiding Marble, Masonic, and Terrazzo Mechanics.

Other Classifications of Work:

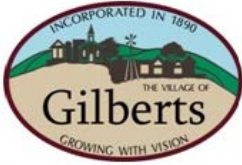
For definitions of classifications not otherwise set out, the Department generally has on file such definitions which are available. If a task to be performed is not subject to one of the classifications of pay set out, the Department will upon being contacted state which neighboring county has such a classification and provide such rate, such rate being deemed to exist by reference in this document. If no neighboring county rate applies to the task, the Department shall undertake a special determination, such special determination being then deemed to have existed under this determination. If a project requires these, or any classification not listed, please contact IDOL at 217-782-1710 for wage rates or clarifications.

LANDSCAPING

Landscaping work falls under the existing classifications for laborer, operating engineer and truck driver. The work performed by landscape plantsman and landscape laborer is covered by the existing classification of laborer. The work performed by landscape operators (regardless of equipment used or its size) is covered by the classifications of operating engineer. The work performed by landscape truck drivers (regardless of size of truck driven) is covered by the classifications of truck driver.

MATERIAL TESTER & MATERIAL TESTER/INSPECTOR I AND II

Notwithstanding the difference in the classification title, the classification entitled "Material Tester I" involves the same job duties as the classification entitled "Material Tester/Inspector I". Likewise, the classification entitled "Material Tester II" involves the same job duties as the classification entitled "Material Tester/Inspector II".



Village of Gilberts
Village Hall
87 Galligan Road, Gilberts, Illinois 60136
Ph. 847-428-2861 Fax: 847-428-2955
www.villageofgilberts.com

To: Village President and Board of Trustees
From: Brian Bourdeau, Village Administrator
Date: July 17, 2018 Village Board Meeting
Subject: Item 6B – Further Amending and Replacing Resolution 11-2018 Authorizing and Approving the Release of a Limited Number of Building Permits for Phase 2A1 of the Conservancy Development

Due to the ongoing and fluid nature of discussions concerning the issuance of SSA bonds, including the finalizing of documents, this item is included as a placeholder based on advice from the Village Attorney in the event the Board may wish to consider action.

A status call regarding the issuance is scheduled for Tuesday, July 17, 2018 and staff will be prepared with an update and a recommendation on action at the Village Board meeting.

**A RESOLUTION FURTHER AMENDING AND REPLACING IN ITS ENTIRETY
RESOLUTION NO. 11-2018 AUTHORIZING AND APPROVING THE RELEASE
OF A LIMITED NUMBER OF BUILDING PERMITS FOR PHASE 2A-1
OF THE CONSERVANCY DEVELOPMENT**

WHEREAS, on January 31, 2017, the Village of Gilberts Board of Trustees approved the First Amendment to an Annexation and Development Agreement between the Village of Gilberts and Gilberts Development LLC for 914.02 acres of the Conservancy Development, legally described on **Exhibit A** ("*Gilberts Development Parcel*"), which Agreement was recorded on February 3, 2017, with the Kane County Recorder's Office, as Document No. 2017K006674 ("*Amended Annexation Agreement*"); and

WHEREAS, on January 31, 2017, the Village of Gilberts Board of Trustees also approved Ordinance No. 05-2017, an Ordinance Approving a First Amendment to an Existing Planned Unit Development and the Preliminary PUD Plan for the Conservancy Development, which Ordinance was recorded on February 3, 2017, with the Kane County Recorder's Office, as Document No. 2017K006675 ("*Amended PUD Ordinance*"); and

WHEREAS, on August 15, 2017, the Village Board of Trustees approved the Final Plat of Subdivision and Final PUD Plan for Phase 2A-1 of the Conservancy Development ("*Phase 2A-1 Final Plat Ordinance*"); and

WHEREAS, both the Amended Annexation Agreement and the Phase 2A-1 Final Plat Ordinance restrict the number of building permits that can be issued for lots in the Conservancy Development to 123 permits until the water service improvements required by the Amended Annexation Agreement are completed and operational, unless expressly approved otherwise by a majority vote of the Village Board; and

WHEREAS, Gilberts Development LLC requested that the Village Board authorize and approve the release of additional building permits (beyond the 123 permits authorized by the Amended Annexation Agreement and Phase 2A-1 Final Plat Ordinance) in advance of the water service improvements being completed and operational; and

WHEREAS, the Village Board previously approved Resolution No. 01-2018 approving the release of a limited number of additional building permits for Phase 2A-1; and

WHEREAS, that Resolution was subsequently amended by Resolution No. 07-2018 and then by Resolution No. 10-2018 and then by Resolution No. 11-2018 to extend the time-frame for issuance of the SSA bonds, which is now set to expire on August 1, 2018; and

WHEREAS, Gilberts Development LLC has requested that Resolution No. 11-2018 be amended and replaced in its entirety by this Resolution to extend the time-frame for issuance of the SSA bonds from August 1, 2018 to September 1, 2018.

THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS AS FOLLOWS:

Section 1. Recitals. The recitals set forth above are hereby incorporated into and made a part of this Resolution as though set forth in this Section 1.

Section 2. Release of a Limited Number of Building Permits for Phase 2A-1. In accordance with the authority granted by the Amended Annexation Agreement and the Phase 2A-1 Final Plat Ordinance, the Village Board of Trustees hereby authorizes and approves the release of additional building permits for development in Phase 2A-1 of the Conservancy Development (beyond the 123 permits authorized by the Amended Annexation Agreement and Phase 2A-1 Final Plat Ordinance), as follows:

- A. Upon approval of this Resolution, the Village will release 51 building permits for lots within the Phase 2A-1 of the Conservancy Development, subject to the condition set forth in Subsection B below.
- B. If the SSA 25 bonds are not issued by September 1, 2018, then any building permit approved for release under Section 2.A of this Resolution that has not yet been issued shall be immediately rescinded and returned to the Village.

Section 3. Conditions. The approvals granted in Section 2 of this Resolution are conditioned upon and limited by the following requirements, conditions, and restrictions, the violation of any of which shall, in the sole discretion of the President and Board of Trustees, invalidate the approvals:

- A. **No Authorization of Work.** This Resolution does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on the Gilberts Development Parcel pursuant to the approvals granted in this Resolution unless and until all conditions of this Resolution have been fulfilled and after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law.
- B. **Compliance with Laws.** The Village's zoning, subdivision, and building regulations, and all other applicable Village ordinances and regulations shall continue to apply to the Gilberts Development Parcel, and the development and use of the Gilberts Development Property shall comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- C. **Continued Effect of the Approvals.** The Amended PUD Ordinance, the Amended Annexation Agreement, and the Phase 2A-1 Final Plat Ordinance shall remain in full force and effect, and the Owner shall comply with all requirements, conditions, and restrictions therein.

In addition, any violation of this Resolution shall be deemed a violation of the Village of Gilberts Zoning Code and shall subject the Owner to enforcement proceedings accordingly.

Section 4. Severability. In the event a court of competent jurisdiction finds this Resolution or any provision hereof to be invalid or unenforceable as applied, such finding shall

not affect the validity of the remaining provisions of this Resolution and the application thereof to the greatest extent permitted by law.

Section 5. Repeal and Saving Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Resolution.

Section 6. Effective Date. Upon its passage and approval according to law, this Resolution shall, by authority of the Board of Trustees, be published in pamphlet form.

PASSED BY THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this ____ day of _____ 2018.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Elissa Kojzarek	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Jeanne Allen	_____	_____	_____	_____
Trustee Lou Hacker	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS ____ DAY OF _____, 2018

Village President, Rick Zirk

(SEAL)

ATTEST: _____
Village Clerk Courtney Nicholas

Published: _____

EXHIBIT A

Legal Description of the Gilberts Development Parcel

PARCEL 1:

THE WEST 87 LINKS OF GOVERNMENT LOT 1 OF THE NORTHWEST FRACTIONAL QUARTER OF SECTION 2, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 3:

THE SOUTH 4 RODS OF THE EAST 3 RODS OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 11 TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANE COUNTY, ILLINOIS.

PARCEL 4:

THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THAT PART OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING EASTERLY OF THE RIGHT OF WAY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY, SAID PARALLEL LINE BEING ALSO THE WESTERLY RIGHT OF WAY LINE OF THE ELGIN AND BELVIDERE ELECTRIC COMPANY IN RUTLAND TOWNSHIP, KANE COUNTY, ILLINOIS.

PARCEL 5:

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 6:

THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 42, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 7:

THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 8:

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 9:

THE SOUTH HALF OF THE SOUTH HALF OF SECTION 2 AND THE NORTH HALF OF THE NORTHWEST QUARTER OF SECTION 11, ALL IN TOWNSHIP 42 NORTH, RANGE 7 EAST OF

THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 10:

THE NORTH HALF OF THE NORTHEAST QUARTER (EXCEPT THE SOUTH 4 RODS OF THE WEST 3 RODS THEREOF) OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF RUTLAND, KANE COUNTY, ILLINOIS.

PARCEL 11:

THE NORTHWEST FRACTIONAL QUARTER OF SECTION 2, (EXCEPT THE WEST 87 LINKS OF THE NORTHWEST QUARTER OF SAID NORTHWEST FRACTIONAL QUARTER AND ALSO EXCEPT THAT PART OF SAID NORTHWEST FRACTIONAL LYING NORTHEASTERLY OF THE CENTER LINE OF HUNTLEY ROAD), ALSO THE NORTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 2, ALL IN TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN IN RUTLAND TOWNSHIP, KANE COUNTY, ILLINOIS.

Parcel Identification Numbers: 02-02-100-007; 02-02-100-008; 02-02-300-002; 02-02-300-003; 02-02-300-004; 02-02-400-002; 02-11-100-003; 02-11-100-010; 02-11-200-001; 02-11-200-003; 02-11-200-005; 02-11-200-007; 02-11-300-008; 02-11-400-003; 02-11-400-004; 02-11-400-005; 02-11-475-012; 02-11-425-001; 02-11-475-001; 02-11-425-010; 02-11-401-016; 02-11-296-001; 02-11-401-001; 02-11-401-008; 02-11-401-015; 02-11-350-007; 02-11-404-010; 02-11-475-013; 02-11-401-014; 02-11-401-013; 02-11-401-012; 02-11-401-011; 02-11-401-010; 02-11-401-009; 02-11-401-008; 02-11-401-007; 02-11-401-006; 02-11-401-005; 02-11-401-004; 02-11-401-003; 02-11-401-002; 02-11-296-002; 02-11-402-001; 02-11-402-002; 02-11-402-003; 02-11-348-001; 02-11-402-004; 02-11-348-002; 02-11-402-005; 02-11-348-003; 02-11-348-004; 02-11-350-006; 02-11-350-005; 02-11-350-004; 02-11-404-004; 02-11-350-003; 02-11-404-003; 02-11-350-002; 02-11-404-002; 02-11-350-001; 02-11-404-001; 02-11-404-006; 02-11-404-007; 02-11-404-008; 02-11-404-009; 02-11-451-001; 02-11-451-011; 02-11-451-002; 02-11-451-012; 02-11-451-003; 02-11-451-013; 02-11-451-004; 02-11-451-014; 02-11-451-005; 02-11-451-015; 02-11-451-006; 02-11-451-016; 02-11-451-007; 02-11-451-017; 02-11-451-008; 02-11-451-018; 02-11-451-009; 02-11-451-019; 02-11-451-010; 02-11-451-020; 02-11-349-001; 02-11-349-002; 02-11-349-003; 02-11-349-004; 02-11-349-005; 02-11-349-006; 02-11-349-007; 02-11-349-008; 02-11-349-009; 02-11-403-001; 02-11-403-002; 02-11-403-003; 02-11-403-004; 02-11-403-005; 02-11-403-006; 02-11-403-007; 02-11-403-008; 02-11-403-009; 02-11-405-001; 02-11-405-002; 02-11-405-003; 02-11-405-004; 02-11-405-005; 02-11-405-006; 02-11-405-007; 02-11-405-008; 02-11-405-009; 02-11-405-010; 02-11-405-011; 02-11-405-012; 02-11-405-013; 02-11-405-014; 02-11-405-015; 02-11-405-015; 02-11-405-016; 02-11-405-017; 02-11-405-018; 02-11-405-019; 02-11-425-002; 02-11-425-003; 02-11-425-004; 02-11-425-005; 02-11-425-006; 02-11-425-007; 02-11-425-008; 02-11-425-009; 02-11-425-010; 02-11-425-011; 02-11-425-012; 02-11-425-013; 02-11-425-014; 02-11-425-015; 02-11-425-016; 02-11-425-017; 02-11-425-018; 02-11-425-019; 02-11-425-020; 02-11-452-001; 02-11-452-002; 02-11-452-003; 02-11-452-004; 02-11-452-005; 02-11-452-006; 02-11-452-007; 02-11-452-008; 02-11-452-009; 02-11-452-010; 02-11-452-011; 02-11-452-012; 02-11-452-013; 02-11-452-014; 02-11-452-015; 02-11-452-016; 02-11-452-017; 02-11-452-018; 02-11-452-019; 02-11-475-002; 02-11-475-003; 02-11-475-004; 02-11-475-005; 02-11-475-006; 02-11-475-007; 02-11-475-008; 02-11-475-009; 02-11-475-010; 02-11-475-011

2018 Gilberts Community Days Wrap Up Report

1. Talent
 - a. Good talent lineup for 2018. Bryan and Jeanne are visiting other festivals to scout bands for next year.
 - b. 97 Nine got cut short on Saturday because of rain.
 - c. Talent support (sound & lights) was adequate, but outdated. Would like to explore a taller roof for the stage. It seems like the drummers are too close to the lights on their drum risers.
2. Restaurants

We only had 5 food vendors this year, which allowed everyone to do more business. We could probably add one more, but I would not suggest more than that until the attendance grows significantly.
3. Liquor
 - a. Beer sold by Crusin', Pub 72, and Eagles. Sales seemed to very good this year.
4. Carnival
 - a. Windy City Amusements assigned our carnival to A & A Attractions about one month before the event. A & A had nice equipment, but had to partner with Caulkins Shows to have enough rides. A & A had another event that weekend. A complete A & A show next year is one of our options.
5. Children's Area was well attended.
 - a. Lifezone 360 was a no show on Saturday in the craft tent. The person that I arranged the event with was no longer with the company and left no instructions for remaining staff. Fortunately, residents Oliver and Jackie Rod stepped in and ran the craft tent on Saturday. They did a fantastic job and we appreciate their commitment.
 - b. Home Depot did a great job on Sunday.
 - c. The petting zoo was well attended.
6. Car Show was very good this year.
 - a. We had a good number of cars and some nice variety.
 - b. Dunkin Donuts brought donuts and coffee to sell. They did OK, but the car owners appreciated having them there.
7. Business Expo went very well for a new addition. It brought in an additional \$1,300 of revenue
 - a. We were hoping for 10 and ended up with 15 businesses. Some took two spaces, so we ended up with 18 spaces.
 - b. Noon – 5pm Saturday and Sunday. Hours seemed to be just right.
 - c. Participating businesses were from Gilberts and the surrounding communities.
 - d. Participants expressed willingness to return next year.
 - e. Elgin Recycling dunk tank was a crowd pleaser and raised a lot of money for charity.
8. Staffing / Volunteers
 - a. Wrist-banders: Nancy did a great job, but the area could use more workers/volunteers. Event Management should not be tied down to the wristband tent.
 - b. Table clean up /empty garbage cans: Chris Swanson did a fantastic job keeping the garbage cans changed.
 - c. Backstage helpers: Kyle Roudebush did a great job parking the bands and making sure no cars were blocked in.
 - d. Hampshire HS Honors Society was a great resource for recruiting volunteers

9. Site Plan / Operations Equipment
 - a. ATM was a big hit with the public. The carnival did not have one this year.
 - b. Tents / furniture: Extra chairs seemed to help this year. I heard no complaints about not having chairs to watch the bands.
 - c. Signs: Meyer signs did an excellent job on the signs!
 - d. Golf carts: Thanks to Board President Zirk and Randall Oaks!
10. Operations Schedule
 - a. We did not allow vehicles in the event area on Thursday due to the heavy rains on Wednesday. We were able to re-schedule some deliveries to Friday and work around the issue. Kudos to PW and our volunteers for making this a non-issue
 - b. Defined load-in times worked better for restaurants
11. Parking
 - a. Shuttle was not needed, making Jackson a one-way street seemed to work well.
12. Sponsors
 - a. We picked up a few new sponsors this year with total donations at \$13,730.00
13. Financials
 - a. We slightly exceeded last year's wristband revenue and carnival revenue
 - b. Still waiting for a few final revenue and expenses, but it appears that we will begin 2019 with about the same amount as 2018 started with. (Approximately \$10,000)
14. Marketing for this year
 - a. Website, Village website
 - b. Facebook
 - c. Newsletter
 - d. Radio spot
 - e. Billboard
 - f. Giveaways – Audience loved the branded sunglasses
15. Survey
 - a. We have posted a survey on the Community Days Facebook page, The Community Days website, The Village website, and the link has gone out on the water bills.

DATE	\$\$	WBANDS
Friday, June 1, 2018	\$1,012	506
Saturday, June 2, 2018	\$1,144	572
Sunday, June 3, 2018	\$646	323
2018 TOTAL	2,802	1401
2017 TOTAL	1,792	896
DIFFERENCE	\$1,010	505