

VILLAGE OF GILBERTS

ORDINANCE 13-2022

AN ORDINANCE ESTABLISHING THE COMMERCIAL & INDUSTRIAL FAÇADE IMPROVEMENT PROGRAM FOR THE CENTRAL REDEVELOPMENT TIF

WHEREAS, The Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, as amended, 65 ILCS 5/11-74.4-1, et seq. ("**Act**"), to finance redevelopment projects in accordance with and pursuant to the Act; and

WHEREAS, The Village is authorized under the provisions of the Illinois Municipal Code to make grants to commercial enterprises that are deemed necessary or desirable for the promotion of economic development within the Village, 65 ILCS 5/8-1-2.5; and

WHEREAS, Pursuant to Ordinance No. 08-22, Ordinance No.08-23, and Ordinance No. 08-24, each approved and adopted by the Corporate Authorities on October 22, 2008, the Village approved the Redevelopment Plan and Project for and the creation of the Central Redevelopment Project Area ("**Central Redevelopment TIF**") and authorized the use of Tax Increment Financing pursuant to and in accordance with the Act; and

WHEREAS, the Village desires to further the goals and purposes of the Central Redevelopment TIF through the establishment of a grant program for property owners within the TIF to improve the overall exterior appearance of their businesses and thereby support the transformation of the commercial and industrial areas within the Central Redevelopment TIF into vibrant and well-cared for properties; and

WHEREAS, the grant program for the Central Redevelopment TIF will be known as the Gilberts Commercial and Industrial Façade Improvement Program (CIFIP); and

WHEREAS, the CIFIP is designed to (1) further the objectives of the Redevelopment Plan and Project for the Central Redevelopment TIF, (2) improve the overall image of the Central Redevelopment TIF and thereby increase the property values of commercial and industrial properties within the TIF; (3) strengthen the overall economy, equalized assessed value, and quality of life within the TIF and the Village as a whole; (4) remove and alleviate adverse conditions by encouraging private investment in the rehabilitation and maintenance of properties within the TIF that would not otherwise occur but for the funding provided by the Gilberts CIFIP; (4) assist property owners and tenants with rehabilitating and restoring the visible exterior of existing structures for the betterment of the TIF and the community; and (5) reduce blight and promote the overall health, safety, and welfare of the Village and its residents; and

WHEREAS, the Gilberts CIFIP will provide grant funding only to eligible properties within the Central Redevelopment TIF for specific types of façade improvements, as more fully set forth and detailed in the Commercial & Industrial Façade Improvement Program Policy and Application ("**CIFIP Policy**"), a copy of which is attached hereto and incorporated herein as **Exhibit A**; and

WHEREAS, those applicants that qualify for grant funding under the CIFIP Policy and fulfill all the other requirements of the CIFIP Policy will be required to enter into an Economic Incentive Agreement in a form substantially similar to the form attached hereto and incorporated herein as **Exhibit B**; and

WHEREAS, the Village Board desires to adopt the CIFIP Policy to further the goals and objectives of the Central Redevelopment TIF and to promote the overall health, safety, and welfare of the Village and its residents, and desires to authorize the Village President and Village Administrator to carry out the terms and conditions of the CIFIP and to disburse grant funding only in accordance with the CIFIP Policy, as set forth in this Ordinance.

NOW, 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 set forth above are incorporated into Section 1 as set forth herein.

SECTION 2. ESTABLISHMENT OF THE CIFIP. The Corporate Authorities of the Village hereby create and establish the Commercial & Industrial Façade Improvement Program, and adopt the terms, conditions, and requirements of (1) the Commercial & Industrial Façade Improvement Program Policy and Application attached hereto as **Exhibit A**; and (2) the template Economic Incentive Agreement for the Gilberts CIFIP attached hereto as **Exhibit B**.

SECTION 3. AUTHORIZATION. The Corporate Authorities of the Village hereby authorize and direct the Village President and the Village Administrator to (1) carry out and administer the Gilberts CIFIP pursuant to the terms, conditions, and requirements of the CIFIP Policy attached hereto as **Exhibit A**; (2) execute Economic Incentive Agreements with eligible CIFIP Applicants in a form substantially similar to the template Economic Incentive Agreement attached hereto as **Exhibit B**; and (3) disburse grant funds pursuant to executed Economic Incentive Agreements and in accordance with the terms, conditions, and requirements of the CIFIP Policy.

SECTION 4. SEVERABILITY. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this Ordinance is found to be invalid in any one or more of its several applications, all valid applications shall remain in effect.

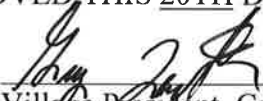
SECTION 5. REPEAL AND SAVINGS CLAUSE. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however that nothing in this Ordinance shall affect any rights, actions, or causes of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall only be effective upon the passage, approval, and publication in the manner required by law.

ADOPTED THIS 20TH DAY OF SEPTEMBER, 2022, pursuant to roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jeanne Allen	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Dan Corbett	<u> </u>	<u> </u>	<u>X</u>	<u> </u>
Trustee Brandon Coats	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Lou Hacker	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee Justin Redfield	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Trustee David LeClereq	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
President Guy Zambetti	<u> </u>	<u> </u>	<u> </u>	<u> </u>

APPROVED THIS 20TH DAY OF SEPTEMBER, 2022.



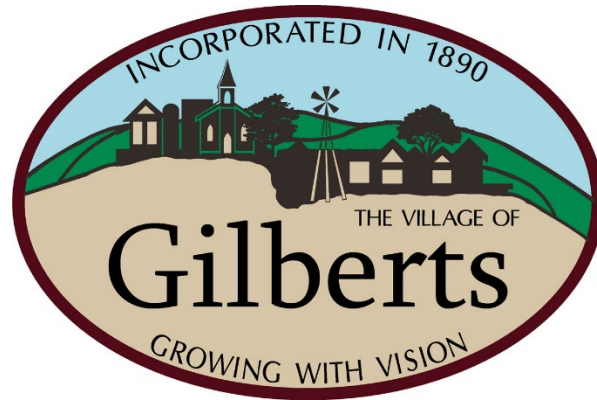
 Village President, Guy Zambetti





 Village Clerk, Kelly Mastera

Published: September 26, 2022



Village of Gilberts

**Commercial & Industrial Façade Improvement Program
(CIFIP)**

Policy and Application

Submit Applications to:

Riley Lynch, Management Analyst

87 Galligan Road

Gilberts, IL 60136

Program Purpose

The purpose of the Gilberts Commercial and Industrial Façade Improvement Program (CIFIP) is to encourage property owners within Gilberts to improve the overall exterior appearance of their businesses, and to transform commercial and industrial areas into well-cared for and vibrant properties.

The Gilberts CIFIP seeks to accomplish the following:

- To improve the overall image and increase property values of commercial and industrial properties to strengthen the economy, EAV, and quality of life in the Village.
- To remove and alleviate adverse conditions by encouraging private investment in the rehabilitation and maintenance of owner-occupied properties.
- To assist property owners and tenants with rehabilitating and restoring the visible exterior of existing structures for the betterment of the community.
- To further the objectives of the TIF 1 Redevelopment Plan program including but not limited to reducing or eliminating the recurrence of blighted conditions.

Program Details

The Village of Gilberts will allocate funds on an annual basis, as budgeted. Please note all proposed property improvements are subject to strict review by Village staff and approval by the Village Administrator. Grant funding is subject to the following conditions:

- Grant funding shall be administered in the form of reimbursement following the completion of an approved project, and presentation of a receipt or similar material.
- The total amount available for all grant applications and projects each year of this program will be set forth in the Village's Annual Budget, and will be payable only from available increment funds from the Central Redevelopment TIF (TIF #1) account. Funding will only be provided up to the amount budgeted for that specific fiscal year and only if there are sufficient funds available in the Central Redevelopment TIF (TIF #1) account. Funding is, therefore, wholly contingent upon available budgeting and TIF funds, and the Village make no representations or warranties that CIFIP funding will be available for all applicants.
- The grant shall not exceed 50% of all eligible activities or \$50,000, whichever is less.
- Upon approval by the Village Administrator, applicants must secure a building permit within 60 days and adhere to all building, zoning, and inspection requirements.
- Approved projects must be completed by 12 months after approval of the CIFIP application in order to receive reimbursement funding, unless an extension is requested.

Program Goals (Must meet two of these goals to qualify)

The Gilberts Commercial & Industrial Façade Improvement Program seeks to ensure that all eligible commercial property owners and businesses have an equal opportunity to access support while also allowing for public funds to be invested for the public good. The program goals are as follows:

- Attract, retain, or expand businesses.
- Attract or retain jobs.
- Enhance the overall commercial and industrial façade along the Route 72 corridor.
- Increase the Village's tax base by facilitating development of underutilized properties.

- Provide for the development of public amenities or infrastructure.
- Support Village planning initiatives by advancing catalytic projects identified in Village plans, including but not limited to the Comprehensive Plan and TIF 1 Redevelopment Plan.
- Encourage development projects that enhance the streetscape and pedestrian experience and improve the vitality of commercial districts by adding interest and activity on the first floor of mixed-use buildings and parking facilities.

Program Eligibility

All commercial and industrial property owners and business owners within TIF #1 are eligible for to apply this program. Additionally, all proposed projects must conform to the Village’s Code of Ordinances and the Unified Development Ordinance including site development standards.

The following property owners are NOT eligible:

- Property/business owners not with TIF District #1 (Map of the TIF district available at www.vilageofgilberts.com)
- Property/business owners of properties or structures which are unpermitted nonconforming uses according to the Village’s zoning code.
- Property/business owners in default of any municipal fees or taxes or property taxes.
- Property/business owners with outstanding building, zoning, property maintenance, or Village Code violations on any properties owned and/or occupied by them within the Village of Gilberts that would not otherwise be corrected by applying for the program.
- Property owners or properties who have received Façade Improvement Program funding in the past 5 years.
- Property owners who are Village officials or employees of the Village of Gilberts.

Examples of projects eligible for grant funding include:

- | | |
|--|--|
| • Façade cleaning | • Fences (Other than chain-link) |
| • New siding and siding repair (Except when replacing with metal siding) | • Landscaping retaining walls and improvements |
| • Front and wrap-around porches | • Painting with neutral colors in general conformance with the surrounding area |
| • Front patios and walkways | • Windows and doors |
| • Decorative masonry walls | • Tuckpointing |
| • Exterior cornices | • Awnings/canopies |
| • Exterior lighting and/or lighting improvements | • Restoration of brick using a non-abrasive paint removal material (e.g., corn cob or walnut shell pieces, etc.) |
| • Pitched roofs | • Similar & compatible projects as approved by the Village Administrator |
| • Removal of inappropriate exterior finishes, materials, or features | |
| • Replacement of sidewalks in the public right-of-way | |

Examples of ineligible projects include:

- Building permit fees and related costs
- Professional service fees including but not limited to design, engineering, architectural, and structural fees
- Replacement of driveways or parking lots.
- Signs, sign fees and related costs
- Flat roofs
- Landscaping maintenance
- Painting masonry that was not previously painted
- Sandblasting of brick
- Acquisition of land and/or buildings
- New construction, building expansion, or development not directly related to improving a façade.
- Projects not visible from the public right-of-way
- Projects completed prior to receiving approval for this grant program.

Program Application Process

Property owners seeking CIFIP grant funding shall apply as follows:

- Applications will be accepted by the Village beginning January 1st of each new year through October 31st of that year. Applications submitted between October 31st and December 31st will be considered for the next year's program. Applications and awards are considered in the order in which they are received. **Only expenses incurred after May 1, 2022 will be eligible for CIFIP grant funding.**
- Submit the application to:
 - Riley Lynch, Management Analyst
 - Village of Gilberts
 - 87 Galligan Road
 - Gilberts, IL 60136
- Application Checklist: The following items must be attached to your application. Applications will be considered incomplete until all of the items have been received.
 - Completed Façade Improvement Program application
 - Completed and signed Grant Agreement
 - Proof of ownership or owner authorization
 - Proof of property taxes paid
 - Photos of commercial structure to be improved
 - Detailed description and sketch/rendering of the work to be performed (including building materials and color scheme)
 - Working architectural drawings, if requested
 - Schedule of work to be completed

Program Review and Approval Process

Applications will be reviewed and approved according to the following process:

- Applications will be reviewed as they are submitted and approved on a rolling basis until the funds budgeted for that program year are depleted.
- The Village will evaluate each application for its extent/scope of work proposed, the applicant's eligibility for the program, and its potential to contribute to the specified goals.
- Following the review process, and determination that the proposed project and location is eligible for this program, Village staff will recommend which applications should receive funding based upon the adopted budget.
- After recommendation by staff, the Village Administrator will make the final approval of the application. *The Village of Gilberts retains the right to approve/deny an entire request or portions thereof.*
- No application is approved and no grant funding will be provided unless and until the Applicant and the Village execute a CIFIP Economic Incentive Agreement in a form substantially similar to the form attached hereto.

Program Reimbursement

Project reimbursement will occur upon completion of the project and final inspection by the Village as outlined in the accompanying grant agreement. If costs exceed the original estimates, the property owner will be responsible for the full amount of the excess. The Village will not reimburse more than the total amount specified in the letter of intent. If any work commences before authorization is granted, these costs will not be eligible for reimbursement. The following items must be submitted in order to process the reimbursement:

- Letter requesting reimbursement
- Final inspection(s) for permitted work
- Final inspection verifying the work has been completed in accordance with the proposed project.
- Copies of all final invoices
- Signed and notarized waiver(s) of lien on the property
- Proof of payment (i.e. canceled check, credit card statement, receipt, invoice, etc.)

Upon submittal of all applicable reimbursement materials, reimbursement will be placed on the warrant list for approval of the reimbursement payment by the Village Board at a regularly scheduled Village Board meeting. *Please note, this process can take up to 4 weeks.*

Program Penalties

All applicants granted financial support are required to comply with all Village codes and ordinances. Failure to do so, as documented by citations issued by the Village of Gilberts, will subject that awardee to all applicable fines and penalties allowable under Village code including a reduction in this program's grant funding in part or in full.

Any intentional removal or modification to the façade improvement which is not in accordance with the approved project, or any business operation that ceases within three years will require reimbursement of awarded funds. The reimbursement of the award will adhere to the grant agreement and the following table:

<u>Timing of Default Event</u>	<u>Percentage of Award that must be refunded</u>
Within 1 year of Award payment	100%
Within 2 years of Award payment	67%
Within 3 years of Award payment	33%

Questions

Interested property owners are encouraged to contact the Village prior to submitting an application for any questions regarding the Gilberts Commercial & Industrial Façade Improvement Program. Inquiries can be directed to Riley Lynch, Management Analyst at 847-428-2861 x603 or rlynch@villageofgilberts.com.

Checklist of Required Attachments

- Completed Façade Improvement Application
- Proof of Property Ownership
- Proof of Paid Property Taxes
- Photos of Structure to be Improved
- Detailed Description and Sketch/Rendering of the Work to be Performed (Including building materials, and other relevant details)
- Working Architectural Drawings, if requested
- Copies of a Minimum of 3 Qualified Bids for each Portion of the Project in which Funding is being Requested
- Schedule of Work to be Completed

Statement of Understanding

- I (we), agree to comply with the stipulations, guidelines, and procedures of the Village of Gilberts' CIFIP. I have read and understand the policy as described.
- I (we) certify that the information supplied in this application is, to the best of my (our) knowledge, true, accurate, and complete, and is provided for the purpose of obtaining approval to participate in the Village of Gilberts' CIFIP.
- I (we) understand that I (we) must submit detailed cost documentation, copies of bids, contracts, invoices, receipts, and contractor's final waivers of lien upon completion of the approved improvements.
- I (we) understand that any and all work, requiring a Village building permit, must be performed in accordance with and must meet any and all Federal, State, and local building code standards.
- I (we) understand that work done before a Façade Improvement Agreement is approved by the Village is not eligible for a grant.
- I (we) understand the Façade Improvement reimbursement grants are subject to taxation and that the Village is required to report the amount and recipient of said grants to the IRS.
- I (we) agree to hold harmless, indemnify, and defend the Village of Gilberts, and their employees and agents, for any and all liabilities arising out of this application, loan, construction or other project(s), and any agreement to share costs, including but not limited to any and all lawsuits or other disputes.

Applicant's Signature: _____ **Date:** _____

Owner Authorization (If applicable)

If the applicant is not the owner of the property, you must have the following certificate:

I certify that I am the owner of the property at _____, and that I authorize the applicant to apply for a reimbursement grant under the Village of Gilberts' Commercial & Industrial Façade Improvement Program (CIFP) and undertake the approved improvements.

Owners Printed Name: _____ **Phone:** _____

Owners Signature: _____ **Date:** _____

Village Use Only		
Date Received: _____	Was the Application Complete?	Yes No
Staff Signature: _____	Date: _____	

CIFIP Boundary (TIF #1)



**THIS DOCUMENT
PREPARED BY AND
AFTER RECORDING
RETURN TO:**

Village of Gilberts
Attn: Village Clerk
87 Galligan Road
Gilberts, IL 60136

Above space reserved for recorder's use

GILBERTS COMMERCIAL & INDUSTRIAL FAÇADE IMPROVEMENT PROGRAM

CENTRAL REDEVELOPMENT TIF

ECONOMIC INCENTIVE AGREEMENT

BY AND BETWEEN

THE VILLAGE OF GILBERTS

AND

(_____, Gilberts, Illinois)

ECONOMIC INCENTIVE AGREEMENT

THIS ECONOMIC INCENTIVE AGREEMENT (“*Agreement*”), is dated the _____ day of _____, 202__ (“*Effective Date*”), and is by and between the **VILLAGE OF GILBERTS**, an Illinois municipal corporation with offices located at 87 Galligan Road, Gilberts, Illinois (“*Village*”) and _____, an _____ with offices located at _____ (“*Recipient*”) (the Village and Recipient are collectively referred to as “*Parties*” and sometimes individually as a “*Party*”).

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, the Parties agree as follows:

SECTION 1. RECITALS.

A. The Recipient holds legal title to the property commonly known as _____, Gilberts, Illinois, legally described in Exhibit A (“*Property*”).

B. The Recipient has operated a _____ (“*Business*”) on the Property for the last _____ years.

C. The Village is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, as amended, 65 ILCS 5/11-74.4-1, et seq. (“*Act*”), to finance redevelopment projects in accordance with and pursuant to the Act.

D. The Village is authorized under the provisions of the Illinois Municipal Code to make grants to commercial enterprises that are deemed necessary or desirable for the promotion of economic development within the Village, 65 ILCS 5/8-1-2.5.

E. Pursuant to Ordinance No. 08-22, Ordinance No.08-23, and Ordinance No. 08-24, each approved and adopted by the Corporate Authorities on October 22, 2008, the Village approved the Redevelopment Plan and Project for and the creation of the Central Redevelopment Project Area (“*Central Redevelopment TIF*”) and authorized the use of Tax Increment Financing pursuant to and in accordance with the Act.

F. The Property is located within the boundaries of the Central Redevelopment TIF.

G. The Village has established and administers the Commercial & Industrial Façade Improvement Program (“*CIFIP*”) allowing eligible property owners within the Central Redevelopment TIF to apply for and receive economic incentive grant funding for certain rehabilitative purposes.

H. The Recipient submitted the application attached as Exhibit B (“*Application Documents*”) seeking a CIFIP tax increment financing grant award (“*CIFIP Grant*”).

I. The Recipient specifically seeks the CIFIP Grant to improve the overall exterior appearance of the Business and Property, including, without limitation, making the improvements more fully described in Exhibit C (“*Improvements*”).

J. Pursuant to the Act, including, without limitation, 65 ILCS 5/11-74.4-3(q), the Village is authorized to appropriate and expend funds for reimbursement of certain development or redevelopment costs within tax increment financing districts, including, without limitation, costs of rehabilitation, reconstruction, or repair or remodeling of existing public or private buildings, fixtures, and leasehold improvements.

K. The Village finds and determines that providing the CIFIP Grant to the Recipient will (1) further the objectives of the Redevelopment Plan and Project for the Central Redevelopment TIF, (2) improve the overall image of the Central Redevelopment TIF and thereby increase the property values of commercial and industrial properties within the TIF; (3) strengthen the overall economy, equalized assessed value, and quality of life within the TIF and the Village as a whole; (4) remove and alleviate adverse conditions by providing an incentive to the Recipient to invest in the Property that would not otherwise occur but for the funding provided by the Gilberts CIFIP; (4) assist the Recipient with the rehabilitation and restoration of the visible exterior of the Property for the betterment of the TIF and the community; and (5) reduce blight and promote the overall health, safety, and welfare of the Village and its residents.

L. The Village Board find that it is necessary and desirable to provide the Recipient a CIFIP Grant in the amount of \$ _____, and that doing so is consistent with the Act and the CIFIP rules and regulations.

SECTION 2. CIFIP TAX INCREMENT FINANCING GRANT AWARD.

A. Subject to this Agreement’s terms, the Village agrees to provide to the Recipient an award in the amount of _____ and [no]/100ths (\$ _____) dollars (“*Award*”) to allow the recipient to invest in the Business and to support the Business’s success in the Village and to further implement the Redevelopment Plan and Project for the Central Redevelopment TIF. This Award will only be provided to the Recipient to reimburse the Recipient for TIF eligible costs.

B. Upon completing installing the Improvements and the Village’s completion of a final inspection of the Property for the permitted work in accordance with this Agreement and all Village codes, rules, and regulations, as amended, the Recipient shall submit to the Village: (1) a letter requesting reimbursement pursuant to this Agreement; (2) a report of the final inspection for permitted work; (3) a report of the final inspection verifying the work has been completed in accordance with the proposed project; (4) copies of all final invoices showing the cost of services concerning the Improvements; (5) signed and notarized final lien waivers from all of Recipient’s contractors, subcontractors, employees, or individuals providing any services concerning the Improvements; and (6) proof of payment of all costs associated with the Improvements (collectively, “*Recipient Documents*”).

C. Within sixty (60) days of receiving a complete set of Recipient Documents, the Village will issue a check to the Recipient in the amount of the Award. In no case shall the Village's payment exceed the Award amount, regardless of the amount of any costs incurred by the recipient.

D. The Award will be payable to the Recipient only from available increment funds from the Central Redevelopment TIF and from no other source. The Recipient will have no recourse against the Village's general fund or other Village revenues.

SECTION 3. MAINTENANCE.

A. Upon Recipient's completion of the Improvements pursuant to this Agreement and at all times during this Agreement's term, the Recipient shall be responsible for preserving and maintaining the Improvements in the condition and state set forth in Exhibit C and in full compliance with all Village codes, rules, and regulations, as amended, including, without limitation, this Agreement and CIFIP rules and regulations.

B. The Village Administrator or his designee ("**Administrator**") may, upon reasonable notice, periodically review the progress and condition of the Improvements. Such inspections shall not replace or be a substitute for any required inspection by the Village or other entity with jurisdiction over the Property. All improvements the Village finds not to be in compliance with Exhibit C shall be immediately remedied by the Recipient and deficient or improper improvements shall promptly be replaced and made to comply with Exhibit C.

SECTION 4. DEFAULT; CLAWBACK; REMEDIES.

A. If, within three (3) years of the date the Village delivers the Award to the Recipient, the Recipient relocates its business outside of the Village, ceases business operations, fails to comply with the terms of this Agreement, fails to comply with CIFIP rules and regulations, or fails to maintain the Improvements in the condition and state set forth in Exhibit C (collectively, "**Default Event**"), the Recipient must refund the Village in accordance with the following:

<u>Timing of Default Event</u>	<u>Percentage of Award that must be refunded</u>
Within 1 year of Award payment	100%
Within 2 years of Award payment	67%
Within 3 years of Award payment	33%

B. If the Recipient fails for any reason whatsoever to: (1) apply for and obtain all permits and approvals necessary to construct the Improvements within 6 months of the Effective Date; and (2) apply for and receive from the Village a full and binding occupancy certificate within 12 months of the Effective Date this Agreement and the Parties' rights and obligations hereunder will automatically terminate, and the Recipient shall not be entitled to receive any Award.

C. If the Recipient fails for any reason whatsoever to complete the Improvements in conformity with Exhibit C and the terms of this Agreement, then upon written notice given by the

Administrator to the Recipient, this Agreement shall terminate and all the Village's obligations and duties under this Agreement, including, without limitation, the payment of the Award to the Recipient, shall become null and void.

D. In the event that the Recipient fails for any reason whatsoever to pay any amount owed pursuant to Section 4.A., or otherwise violates any provision of this Agreement or CIFIP rules and regulations, the Village may pursue, and hereby reserves, any and all remedies, including, without limitation, all remedies available at law or in equity. This Section 4.D. shall survive the voluntary or involuntary termination of this Agreement.

SECTION 5. INSURANCE AND INDEMNIFICATION.

A. Insurance. Recipient will procure and deliver to the Village evidence of such insurance policies, at the Recipients cost and expense, and shall maintain in full force and effect through the term of this Agreement, a policy or policies of commercial general liability insurance and, during any period of constructing the Improvements, contractor's liability insurance, with liability coverage under the commercial general liability insurance to be not less than one million and [no]/100 (\$1,000,000.00) dollars each occurrence and two million and [no]/100 (\$2,000,000.00) dollars aggregate. All such policies shall in such form and issued by such companies as shall be reasonably acceptable to the Village Attorney to protect the Village and the Recipient against any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about the Property. Each such policy shall name the Village as an additional insured. Any insurance carried by the Village for like risks shall be secondary and in excess of the insurance required hereunder. The Village shall be given written notice at least thirty (30) days prior to any cancellation or material amendment of any policy required hereunder.

B. Village Review. The Recipient acknowledges and agrees that the Village is not, and shall not be, in any way liable for damages or injuries that may be sustained as the result of the Villages review and approval of any plans for the Property, including, without limitation, the issuance of any approvals, permits, certificates, or acceptances for the Property or the Village's approval of this agreement, that the Village's review and approval of those plans and issuance of those approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure the Recipient, or any of its heirs, successors, assigns, tenants, and licensees, or any other Person, against damages or injury of any kind at any time.

C. Village Procedure. The Recipient acknowledges and agrees that notices, meetings, and hearings have been properly given and held by the Village with respect to the approval of this Agreement and agrees not to challenge the Village's approval on the grounds of any procedural infirmity or of any denial of any procedural right.

D. Indemnity. The Recipient releases the Village from, and covenants and agrees that the Village shall not be liable for, and covenants and agrees to defend, indemnify, and hold harmless the Village and its elected and appointed officials, officers, employees, and agents from and against any and all losses, claims, damages, liabilities, investigations, or expenses, of every conceivable kind, character and nature whatsoever arising out of, resulting from or in any way connected with directly or indirectly with the Improvements, the Property, or the Agreement,

including, without limitation, actions or claims arising from or related to the Prevailing Wage Act (820 ILCS 30/0.01, *et seq.*) (“*Act*”). The Recipient further covenants and agrees to pay for or reimburse the Village and its elected and appointed officials, officers, employees, and agents for any and all costs, reasonable attorney’s fees, liabilities, and expenses incurred in connection with investigating, defending against, or otherwise in connection with any such losses, claims, damages, liabilities, investigations, or causes of action. The Village shall have the right to select legal counsel and to approve any settlement in connection with such losses, claims, damages, liabilities, or causes of action. The provisions of this section shall survive this Agreement’s voluntary or involuntary termination.

The Recipient understands and acknowledges that, depending on how the Recipient uses the Award, the Award and any work or labor the Recipient purchases with the Award may become subject to the Act. The Recipient covenants and agrees to comply, and to contractually obligate and cause its construction manager, any general contractor, each subcontractor or other applicable entity or person to comply with the applicable requirements of the Act. All contracts subject to the Act shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the prevailing wage rates are revised, the revised rates shall apply to all such contracts. The Recipient shall provide the Village with copies of all such contracts entered into by the Recipient or others to evidence compliance with this Section. The Recipient together with its contractors, subcontractors, agents, employees and others may be obligated to provide such documents, information and certifications, including appropriate payroll certifications, as are necessary to comply with the Act. The Recipient will maintain segregated accounting records detailing expenses incurred and paid for with public and private funds.

SECTION 6. RECIPIENT’S OBLIGATIONS.

A. Construction of Improvements.

1. Construction. The Recipient shall construct and install the Improvements on the Property in substantial compliance with the project scope, site plans, architectural plans and elevations, engineering plans, and plats, as appropriate, submitted to and approved by the Village. Further, the Recipient will at all times operate and maintain the Improvements, Business, and Property in compliance with all applicable Village, state, and federal laws, ordinances, rules, and regulations, including, without limitation, all applicable zoning ordinances, building codes, environmental codes, life safety codes, and tax ordinances, rules, and regulations of the Village, as the same may be amended from time to time.
2. Construction Permits. No construction, improvement, or development of any kind shall be permitted on any portion of the Property unless and until the Recipient has received approval from all necessary Village commissions, boards, and departments, and has been issued valid and binding building permits. Further, no business operation or occupancy of the Property may occur prior to the issuance of a full and binding occupancy certificate.

3. Fees, Costs, and Expenses. The Recipient shall be responsible for and pay all Village imposed fees on the construction and operation of the Business, including, without limitation: a) all Village costs incurred administering CIFIP and the Agreement; b) all Village costs incurred drafting and negotiating this Agreement, including legal fees and expenses; and c) the Village's costs and fees incurred enforcing this Agreement, including reasonable legal fees, expenses, and appeal costs and fees.

4. Modifications to Improvements. For the time period beginning on the Effective Date and ending on the third anniversary of the date the Village delivers the Award to the Recipient, the Recipient shall not enter into any Agreement or contract or take any action or inaction to alter, change or remove the Improvements, or the approved design thereof, nor shall Recipient undertake any other changes, by contract or otherwise, to the Improvements unless such changes are first submitted to the Administrator, and any additional review body designated by the Administrator, for approval. Such approval shall not be unreasonably withheld if the proposed changes do not substantially alter the original design concept of the improvements as specified in Exhibit C.

B. Certificate of Assistance. The Recipient agrees to place a certificate, in a form provided by the Village, indicating the Recipient is a participant in CIFIP, in the front window or other location on the premises that is visible to the public during this Agreement's term.

SECTION 7. TERM.

Except as otherwise provided herein, this Agreement's term shall begin on the Effective Date and end on the third anniversary of the date the Village delivers the Award to the Recipient.

SECTION 8. GENERAL PROVISIONS.

A. Recordation. This Agreement shall be recorded with the office of the Kane County Recorder at the Recipient's expense. All contracts and deeds of conveyance relating to the property, or any part thereof, and all contracts conveying an ownership interest in the Business, shall be subject to the provisions of this Agreement.

B. No Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the Parties hereto and their respective successors and permitted assigns and no third party is intended to or shall have any rights hereunder.

C. Assignment. No part of this Agreement may be assigned by any of the Parties hereto without prior written consent of the other Parties.

D. CIFIP. The recipient represents and warrants that the statements and representations in the Application Documents are true, accurate, and complete. Recipient's failure

to provide truthful, accurate, or complete Application Documents, shall constitute a Default Event and will relieve the Village of its duties and obligations under this Agreement, including, without limitation, payment of the Award.

E. Entire Agreement. This Agreement shall constitute the entire agreement of the Parties hereto. All prior agreements between the Parties, whether written or oral, are merged herein and shall be of no force and effect.

F. Amendments and Modifications. No modification, addition, deletion, revision, alteration, or other change to this Agreement shall be effective unless and until such change is reduced to writing and executed by the Parties pursuant to all applicable statutory procedures.

G. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

H. Non-Waiver. The Village shall be under no obligation to exercise any of the rights granted to it in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village to exercise at any time any such rights shall not be deemed or construed as a waiver thereof, nor shall such failure void or affect the Village's right to enforce such rights or any other rights.

I. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be (i) personally delivered, or (ii) delivered by a reputable overnight courier, or (iii) delivered by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid.

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

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

Village of Gilberts
87 Galligan Road
Gilberts, Illinois 60136
Attn: Brian Bourdeau

With a copy to:

Ancel Glink, P.C.
140 South Dearborn Street, 6th Floor
Chicago, Illinois 60603
Attn: Kurt S. Asprooth

J. Governing Law. This Agreement shall be governed by, construed, and enforced in accordance with the internal laws, but not the conflict of laws rules, of the State of Illinois. Venue for any dispute relating to this Agreement shall be in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois.

K. Severability. If any provision of this Agreement is construed or held to be void, invalid, illegal, or unenforceable in any respect, the remaining part of that provision and the remaining provisions of this Agreement shall not be affected, impaired, or invalidate thereby, but shall remain in full force and effect. The unenforceability of any provision of this Agreement shall not affect the enforceability of that provision in any other situation.

L. Interpretation. This Agreement shall be construed without regard to the identity of the Party who drafted the various provisions of this Agreement. Each and every provision of this Agreement shall be construed as though all Parties to this Agreement participated equally in the drafting of this Agreement, and any rule or construction that a document is to be construed against the drafting Party shall not be applicable to this Agreement.

M. Exhibits. Exhibits A – C attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. Any conflict between the terms of this Agreement and its exhibits shall be resolved in favor of this Agreement.

N. Authority to Execute.

1. The Village. The Village hereby represents to the Recipient that the persons executing this Agreement on its behalf have been properly authorized to do so by its Village Board.
2. The Recipient. The Recipient hereby warrants and represents to the Village (i) that it has the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement and to bind the Property as set forth in this Agreement, (ii) that all legal actions needed to authorize the execution,

delivery, and performance of this Agreement have been taken, and (iii) that neither the execution of this Agreement nor the performance of the obligations assumed by the Recipient will (a) result in a breach or default under any agreement to which the Recipient is a party or to which it or the Property is bound or (b) violate any statute, law, restriction, court order, or agreement to which the Recipient or the Property are subject, and to which the Recipient has actual or constructive knowledge.

O. Freedom of Information Act Compliance. The Recipient agrees to maintain, without charge, all records and documents concerning or relating to this Agreement and the Property in accordance with the Freedom of Information Act 5 ILCS 140/1, *et seq.* (“**FOIA**”). Upon Village’s request, the Recipient shall produce all records requested by Village within the timeframe requested by Village, and if additional time is needed to compile the requested records, the Recipient shall promptly notify the Village. In the event that either party is found to have not complied with FOIA due to the other party’s failure to produce documents or otherwise appropriately respond to a request under FOIA, then the party failing to produce and/or respond shall indemnify and hold harmless the other party, and pay all amounts determined to be due, including, but not limited to, fines, costs, attorneys’ fees and penalties.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have set their hands and seals as of the date first written above.

VILLAGE OF GILBERTS,
an Illinois municipal corporation

By: _____
Guy Zambetti, Village President

ATTEST:

By: _____
Kelly Mastera, Village Clerk

Dated: _____

_____ ,

an _____

By: _____

Name: _____

Title: _____

Dated: _____

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY THAT** Guy Zambetti and Kelly Mastera, the Village President and Village Clerk, respectively, of the **VILLAGE OF GILBERTS**, an Illinois municipal corporation, are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act on behalf of said municipal corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of _____, 202__.

Signature of Notary

Seal

My Commission expires:_____

Exhibit A

Property's Legal Description

P.I.N.: _____

Commonly Known As: _____, Gilberts, Illinois

Exhibit B

Application

[Attached]

Exhibit C

Description and Depiction of Improvements

[Attached]