

**A RESOLUTION FURTHER AMENDING AND REPLACING IN ITS ENTIRETY
RESOLUTION NO. 10-2018 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 to extend the time-frame for issuance of the SSA bonds, which is now set to expire on July 1, 2018; and

WHEREAS, Gilberts Development LLC has requested that Resolution No. 10-2018 be amended and replaced in its entirety by this Resolution to extend the time-frame for issuance of the SSA bonds from July 1, 2018 to August 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 August 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 26 day of June 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 26 DAY OF June, 2018

RZ
Village President, Rick Zirk



ATTEST:

Courtney Nicholas
Village Clerk Courtney Nicholas

Published:

JUNE 27, 2018