

RESOLUTION NO. 40- 2023

**RESOLUTION AUTHORIZING ACCEPTANCE OF PUBLIC IMPROVEMENTS
FOR NEIGHBORHOOD 1 (NH-1) IN 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 ("*Gilberts Development Parcel*"), which Agreement was recorded on February 3, 2017, with the Kane County Recorder's Office, as Document No. 2017K006674, and which Agreement was further amended by the Second Amendment and the Third Amendment (collectively, "*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, which Ordinance was further amended by the Second Amendment to the PUD Ordinance (collectively, "*Amended PUD Ordinance*"); and

WHEREAS, the Village Board has approved various plats of subdivision for phases of development of the Conservancy Development Parcel, including final plats for Neighborhoods 1, 2A-1, 2A-2, 2B-1, 2B-2, 2B-3, and 3A; and

WHEREAS, the developer of the Conservancy Development Parcel has requested that the Village Board approve the release of the performance security for the public improvements in Neighborhood 1 ("*NH-1*"), accept the maintenance security for those public improvements, and accept those public improvements which are identified on Exhibit A to this Resolution ("*NH-1 Public Improvements*"); and,

WHEREAS, the Village Engineer has recommended that the Village accept the NH-1 Public Improvements;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF GILBERTS, IN KANE COUNTY, ILLINOIS, as follows:

Section 1. Approval of Release of Performance Security. Upon the approval of this Resolution and the posting of the maintenance security required by Section 3 of this Resolution, the Village agrees to release the posted performance security for the NH-1 Public Improvements.

Section 2. Acceptance of NH-1 Public Improvements. Upon the recommendation of the Village Engineer, the Village Board of Trustees hereby accepts the NH-1 Public Improvements constructed as part of the development of NH-1 in accordance with the approved plans and specifications, and as identified on Exhibit A. The Village acknowledges receipt of the developer's representation and warranty that the development is free and clear of all liens, charges, and encumbrances, in accordance with Section 23 of the Mechanics Lien Act. The approval and acceptance of the NH-1 Public Improvements will be effective upon recordation of any necessary

easements and the provision of a bill of sale for the NH-1 Public Improvements (attached as Exhibit B), as well as the developer's posting of the maintenance security required by Section 3 of this Resolution.

Section 3. Maintenance Security. In accordance with the requirements of the Amended Annexation Agreement, the developer of the Conservancy Development Parcel must post with the Village Clerk maintenance security in the amount of 10% of the construction value of the NH-1 Public Improvements, being \$369,181.63, as approved by the Village Engineer, which maintenance security must remain in place and be valid for 12 months.

Section 4. 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 this 21st day of November, 2023, as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Robert Vanni	_____	_____	<u>X</u>	_____
Trustee Robert Chapman	_____	_____	<u>X</u>	_____
Trustee Justin Redfield	<u>X</u>	_____	_____	_____
Trustee Jeanne Allen	<u>X</u>	_____	_____	_____
Trustee Frank Marino	<u>X</u>	_____	_____	_____
Trustee Brandon Coats	<u>X</u>	_____	_____	_____
President Guy Zambetti	<u>X</u>	_____	_____	_____

APPROVED THIS 21st DAY OF NOVEMBER, 2023.



Guy Zambetti, Village President

(SEAL)
ATTEST:



Lynda Lange, Village Clerk

Exhibit B

Bill of Sale

Exhibit A

NH-1 Public Improvements

[Attach Record Drawings for NH-1 Public Improvements]

BILL OF SALE

Seller, Gilberts Development LLC, a Delaware limited liability company, in consideration of TEN AND NO/100 (\$10.00) DOLLARS, receipt whereof is hereby acknowledged, does hereby sell, assign, transfer, warrant and set over to the Village of Gilberts, an Illinois municipal corporation, in Kane County, Illinois, the following public improvements and personal property:

Public improvements constructed as part of the development of Neighborhood 1 (originally Pod 4) in The Conservancy, including public utilities, public roadways, and the public sanitary lift station, as described in *Exhibit A* (collectively, the "*Property*").

Seller hereby represents and warrants to the Village of Gilberts that Seller is the absolute owner of said Property, that said Property is free and clear of all liens, charges and encumbrances, and that Seller has full right, power and authority to sell said Property and to make this Bill of Sale.

IN WITNESS WHEREOF, Seller has signed and sealed this Bill of Sale at Elmhurst, IL this 20 day of OCTOBER, 2023.

By: [Signature]
TROY MERTZ
(Type or Print Name Here)

Its: MANAGER

ATTEST:

By: [Signature]
Its: MANAGER

(SEAL)

Subscribed and sworn before me
this 20 day of October, 2023

[Signature]
Notary Public

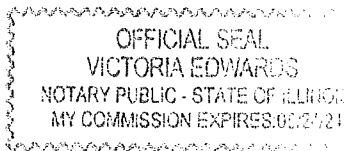


EXHIBIT A

Record Drawings for The Conservancy – Pod 4

