

ORDINANCE NO. 09-2024

AN ORDINANCE APPROVING  
A BOUNDARY LINE AGREEMENT WITH THE CITY OF ELGIN, ILLINOIS

**WHEREAS**, the Village of Gilberts, Kane County, Illinois, is an Illinois municipality organized and operating under the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

**WHEREAS**, the City of Elgin, Cook and Kane Counties, Illinois, is an Illinois home-rule municipality organized and operating pursuant to Article VII, Section 6 of the Illinois State Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

**WHEREAS**, units of local government are enabled by Article VII, Section 10, of the Illinois State Constitution of 1970 to enter into agreements among themselves to obtain or share services and to exercise, combine, or transfer any power or function in a manner not prohibited by law or ordinance; and

**WHEREAS**, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, authorizes municipalities to, jointly with any other unit of local government, exercise any power, privilege or authority which may be exercised by a unit of local government individually, and to enter into contracts for the performance of government services, activities, and undertakings; and

**WHEREAS**, the Illinois Municipal Code authorizes municipalities to enter into boundary line agreements “[i]f unincorporated territory is within one and one-half miles of the boundaries of two or more corporate authorities that have adopted official plans . . .,” 65 ILCS 5/11-12-9; and

**WHEREAS**, pursuant to and in accordance with this authority, the Village of Gilberts has negotiated the terms and provisions of an Intergovernmental Agreement with the City of Elgin that establishes the boundary line between the two municipalities which delineates their respective jurisdictions for annexation and land use planning, a copy of which is attached hereto as **Exhibit A** (“Boundary Agreement”); and

**WHEREAS**, the Village of Gilberts published and posted the required notice relative to the Boundary Agreement on March 6, 2024; and

**WHEREAS**, the Village President and Board of Trustees of the Village of Gilberts find and determine that it is in the best interest of the Village and its residents that the Boundary Agreement be approved.

**NOW THEREFORE, BE IT ORDAINED** by the Village 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 though fully set forth herein.

**Section 2. Approval; Authorization.** The Village Board of Trustees hereby approves the Boundary Agreement in substantially the form attached hereto as **Exhibit A**. The Village President

and Village Clerk are hereby authorized and directed to execute the Boundary Agreement and all other documents necessary to effectuate the terms and intent of this Ordinance.

**Section 3. Recording of Agreement.** The Village Clerk is hereby directed to record both this Ordinance and the Boundary Agreement in the office of the Kane County Recorder following its passage and approval by the Village of Gilberts and the City of Elgin.

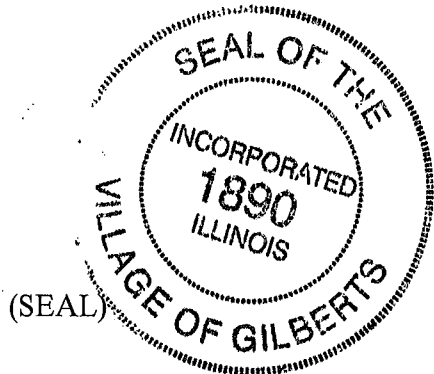
**Section 4. Severability.** In the event a court of competent jurisdiction finds this Ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this Ordinance and the application thereof to the greatest extent permitted by law.

**Section 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 Ordinance.

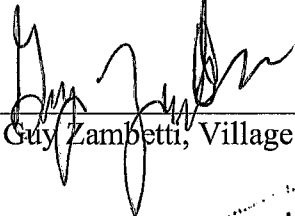
**Section 6. Effective Date.** This Ordinance shall be effective from and after its passage and approval according to law.

**PASSED BY VOTE OF THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this 16<sup>th</sup> day of April, 2024:

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



APPROVED THIS 16<sup>TH</sup> DAY OF APRIL, 2024.

  
 \_\_\_\_\_  
 Guy Zambetti, Village President

ATTEST:   
 \_\_\_\_\_  
 Lynda Lange, Village Clerk



**EXHIBIT A**

Boundary Agreement

INTERGOVERNMENTAL AGREEMENT BETWEEN THE  
VILLAGE OF GILBERTS AND THE CITY OF ELGIN  
REGARDING JURISDICTIONAL BOUNDARIES

THIS AGREEMENT is made and entered into this 16<sup>th</sup> day of April, 2024, by and between the VILLAGE OF GILBERTS, an Illinois municipal corporation, Kane County, Illinois (hereinafter referred to as the “Village of Gilberts”), and the CITY OF ELGIN, an Illinois municipal corporation, Cook and Kane Counties, Illinois (hereinafter referred to as the “City of Elgin”).

WHEREAS, the Village of Gilberts is an Illinois municipality organized and operating under the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, the City of Elgin is an Illinois home-rule municipality organized and operating pursuant to Article VII, Section 6 of the 1970 Constitution of the State of Illinois and the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*; and

WHEREAS, the Village of Gilberts and the City of Elgin entered into a jurisdictional boundary agreement dated January 28, 2004, said agreement having a twenty-year term; and

WHEREAS, the Village of Gilberts and the City of Elgin have each adopted a comprehensive plan pursuant to Section 11-12-7 of the Illinois Municipal Code (65 ILCS 5/11-12-7) and the home rule powers of the City of Elgin; and

WHEREAS, municipalities may enter into jurisdictional boundary agreements pursuant to 65 ILCS 11-12-9 and pursuant to the home rule powers of the City of Elgin; and

WHEREAS, Article VII, Section 10 of the 1970 Constitution of the State of Illinois authorizes units of local government to contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or ordinance; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, provides that any powers, privileges, or authority which may be exercised by a unit of local government individually may be exercised and enjoyed jointly with any other unit of local government, and that such units of local government may enter into contracts for the performance of government services, activities, and undertakings; and WHEREAS, the Village of Gilberts and the City of Elgin have given consideration to the natural flow of storm drainage within the subject unincorporated territory referred to in this Agreement; and

WHEREAS, a jurisdictional boundary agreement is a useful tool for the implementation of the aforesaid official comprehensive plans; and

WHEREAS, the Village of Gilberts and the City of Elgin each deem it to be in their own interests to agree to a boundary line between the Village of Gilberts and the City of Elgin for planning and annexation purposes; and

WHEREAS, it is in the mutual interests of the Village of Gilberts and the City of Elgin to again enter into a jurisdictional boundary agreement in order to plan for development and to provides for the general welfare of their respective residents by proceeding with expansion beyond their present municipal boundaries in an orderly and determined fashion.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The recitals set forth above are incorporated into and made a part of this Agreement as if fully recited hereby.
2. The parties have prepared a drawing attached hereto and made a part hereof as Exhibit 1.

3. The area designated on Exhibit 1 as the "Village of Gilberts Jurisdictional Area" shall be subject to the jurisdiction of the Village of Gilberts for annexation, land use planning, zoning, and subdivision control and shall be made a part of the jurisdictional boundaries of the Village of Gilberts.

4. The area designated on Exhibit 1 as the "City of Elgin Jurisdictional Area" shall be subject to the jurisdiction of the City of Elgin for annexation, land use planning, zoning and subdivision control and shall be made part of the jurisdictional boundaries of the City of Elgin.

5. Neither the Village of Gilberts nor the City of Elgin shall act to annex or exercise any zoning authority or subdivision control authority within the jurisdictional area of the other municipality as depicted on Exhibit 1, nor will either the Village of Gilberts or the City of Elgin object to the annexation, planning, zoning or subdivision of property within the jurisdictional boundary assigned to the other party by this Agreement, unless otherwise agreed to in writing by both the Village of Gilberts and the City of Elgin.

6. The Illinois Environmental Protection Agency (IEPA), through the Northeastern Illinois Planning Commission (NIPC) and the Chicago Metropolitan Agency for Planning (CMAP), has previously designated a Facility Planning Area (FPA) for the Village of Gilberts and for the City of Elgin through the Fox River Water Reclamation District (FRWRD). To the extent necessary, the parties shall reasonably cooperate in the further establishment of FPA boundaries in accordance with the jurisdictional boundaries and other terms of this Agreement; and upon either party (and/or FRWRD on behalf of the City of Elgin) filing a petition with CMAP for approval of such FPA boundaries by the IEPA or others, in order to implement the terms of this Agreement, the other party shall cooperate as reasonably necessary in the processing of such petition consistent with this Agreement.

7. The parties acknowledge and agree that, in the event of a breach by one of them of the covenants contained in Paragraphs 2, 3, 4 or 5, each of which alone is a material element of this Agreement, the other party shall be aggrieved and will suffer damages which are immediate, great and irreparable, and for which no adequate remedy at law exists; and accordingly, in the event of such breach by one party, the aggrieved party shall have the right to seek an order from a court of competent jurisdiction, preliminarily and/or permanently restraining and/or enjoining the breaching party from any further breach of said covenant or covenants and curing such breach. This right to injunctive relief shall be in addition to and not in lieu of, any and all other rights or remedies available to the aggrieved party under applicable Illinois law.

8. This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors and assigns for a term of twenty (20) years from and after the date said agreement has been approved by ordinance of the second of the parties to enact the same.

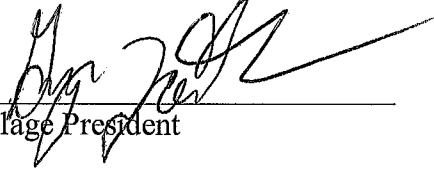
9. If any section, paragraph, subdivision, clause, sentence or provision of this Agreement shall be adjudged by any court of competent jurisdiction to be void or invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue to be in full force and effect.

10. The Village of Gilberts and the City of Elgin each shall adopt an ordinance approving the terms and provisions of this Agreement and authorizing the Village President and Village Clerk and the Mayor and City Clerk to execute and deliver this Agreement. Upon execution, the clerk of each municipality shall forward to the clerk of the other municipality a certified copy of the ordinance so enacted, together with the agreement, signed in duplicate original, so that each municipality shall have one fully executed document on file.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement  
on the date and year first written above in Kane County, Illinois

VILLAGE OF GILBERTS

CITY OF ELGIN

By   
Village President

By \_\_\_\_\_  
Mayor

Attest:

Attest:

  
Village Clerk


\_\_\_\_\_  
City Clerk



# **EXHIBIT 1**

**MAP DEPICTING VILLAGE OF GILBERTS JURISDICTIONAL AREA  
AND CITY OF ELGIN JURISDICTIONAL AREA**

**Exhibit 1  
City of Elgin and Village of Gilberts  
Jurisdictional Areas**

 Jurisdictional Boundary Lines

Map prepared by City of Elgin April 2024

