

A Resolution authorizing an agreement with DA Davidson & Co. for bond underwriting services

BE IT RESOLVED by the President and the Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

Section 1: The Village of Gilberts hereby authorizes the Village President and Village Clerk to execute an agreement with DA Davidson & Co. for bond underwriting services related to the Conservancy Project Special Service Area Number Twenty-Five Bonds, a copy of which is hereto attached as Exhibit "A."

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 19th day of Sept., 2017.

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



APPROVED this 19th day of Sept., 2017


Village President Rick Zirk


Village Clerk, Debra Meadows

Published: Sept 20, 2017



Mr. Richard Zirk
Village of Gilberts
87 Galligan Road
Gilberts, IL 60136

Re: Disclosures by D.A. Davidson & Co. as Underwriter
Pursuant to MSRB Rule G-17 and G-23
Special Service Area Bonds (The Conservancy Project),
Series 2017

Dear President Zirk:

We are writing to provide the Village of Gilberts (the "Issuer"), with certain disclosures required by MSRB Rule G-17 that relate to the proposed offering and issuance of the ~\$22,000,000 Special Service Area Bonds (the "Bonds") to refinance certain existing obligations and provide new money proceeds for the development, known as the Conservancy, located in the Village of Gilberts.

The Issuer has engaged D.A. Davidson & Co. ("Davidson") to serve as an Underwriter, and not as a Municipal Advisor, in connection with the issuance of the Bonds. This letter (the "Agreement") will confirm the terms of our engagement; however it is anticipated that this letter will be replaced and superseded by a Bond Purchase Agreement ("BPA") to be entered into by the parties if and when the Bonds are priced following successful completion of the offering process.

1. Services to be provided by Davidson. The Issuer hereby engages Davidson to serve as Underwriter of the proposed offering and issuance of the Bonds and in such capacity Davidson may provide advice concerning the structure, timing, terms, and other similar matters concerning the issuance of the Bonds in addition to the following services:

- Familiarize itself to the extent it deems appropriate with the Special Service Area, the Developer, the financial condition of the Special Service Area, and the various contracts with homebuilders to purchase lots within the Conservancy;
- Assist and advise with respect to the amount and type of financing, as well as, the overall structure and term of the financing;
- Assist and advise with the selection of the professionals, (including feasibility consultant and Trustee) involved with the financing;
- Assist in the preparation of the Limited Offering Memorandum ("Offering Memorandum"), the BPA, the Trust Indenture and other documents related to the financing;
- Identify, contact and negotiate with investors for the purchase of the Bonds;
- Assist in the closing of the transaction; and
- Such other related services as the Issuer may reasonably request in connection with the offerings.

As Underwriter, Davidson will not be required to purchase the Securities except pursuant to the terms of the BPA, which will not be signed until successful completion of the pre-sale offering period. This letter does not obligate Davidson to purchase any of the Securities.

2. No Advisory or Fiduciary Role. MSRB Rule G-17 requires an Underwriter to deal fairly at all times with Issuers and investors. The Issuer acknowledges and agrees that: (i) the primary role of



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Davidson, as an Underwriter, is to purchase securities, for resale to investors, in an arm's-length commercial transaction between the Issuer and Davidson and that Davidson has financial and other interests that may differ from those of the Issuer; (ii) Davidson is not acting as a Municipal Advisor, Financial Advisor, or fiduciary to the Issuer and has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether Davidson has provided other services or is currently providing other services to the Issuer on other matters); (iii) the only obligations Davidson has to the Issuer with respect to the transaction contemplated hereby expressly are set forth in this agreement; and (iv) the Issuer has consulted its own financial, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate.

In addition, the Issuer acknowledges receipt of certain regulatory disclosures as required by the Municipal Securities Rulemaking Board that are attached to this agreement as Exhibit A. Issuer further acknowledges that Davidson may be required to supplement or make additional disclosures as may be necessary as the specific terms of the transaction progress.

3. Fees and Expenses. The underwriting fee/spread will represent the difference between the price that Davidson pays for the Securities and the public offering price stated on the cover of the final Offering Memorandum. The fee shall be 1.5% of the par amount of Bonds issued. Proceeds of the Bonds will be used to pay CUSIP, DTC, printing and other miscellaneous expenses. The Issuer shall be responsible for paying, but solely from Bond proceeds, all other costs of issuance, including without limitation, bond counsel, underwriter's counsel, and all other expenses incident to the performance of the Issuer's obligations under the proposed offering. Consistent with the expenses enumerated herein, the Issuer will receive an itemized list of expenses at closing detailing all fees incurred.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Securities. Notwithstanding the forgoing, either party may terminate Davidson's engagement at any time without liability of penalty upon at least 30 days' prior written notice to the other party. If Davidson's engagement is terminated by the Issuer, the Issuer agrees to compensate Davidson for its out-of-pocket expenses incurred until the date of termination as detailed in an invoice provided at termination.

5. Indemnification; Limitation of Liability. The Issuer agrees that neither Davidson nor its employees, officers, agents or affiliates shall have any liability to the Issuer for the services provided hereunder except to the extent it is judicially determined that Davidson engaged in gross negligence or willful misconduct.

6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Illinois. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party.

If there is any aspect of this Agreement that you believe requires further clarification, please do not hesitate to contact us. It is our understanding that you have the authority to bind the Issuer by contract with us. We are required to seek your acknowledgment that you have received this letter. Accordingly, please send an email to that effect or sign and return this letter. Depending on the structure of the transaction that the Issuer decides to pursue, or if additional potential or actual material conflicts are identified, we may be required to send you additional disclosures regarding the material financial



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characteristics and risks of such describing those conflicts. At that time, we will seek your acknowledgment.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in us.

D.A.DAVIDSON & CO.

Peter J. Raphael
Senior Vice President, Managing Director

Accepted this 4th day of September, 2017

VILLAGE OF GILBERTS

By: _____



EXHIBIT A

D.A. Davidson & Co. (hereinafter referred to as "Davidson" or "Underwriter") intends to serve as an Underwriter, and not as a Financial Advisor or Municipal Advisor, in connection with the issuance of the Bonds.

As part of our services as Underwriter, Davidson may provide advice concerning the structure, timing, terms, and other similar matters concerning the issuance of the Bonds.

Disclosures Concerning the Underwriters Role

- (i) MSRB Rule G-17 requires an Underwriter to deal fairly at all times with both municipal Issuers and investors.
- (ii) The Underwriters' primary role is to purchase the Bonds with a view to distribution in an arm's-length transaction with the Issuer. The Underwriters financial and other interests that may differ from those of the Issuer
- (iii) Unlike a Municipal Advisor, the Underwriters do not have a fiduciary duty to the Issuer under the federal securities laws and are, therefore, not required by federal law to act in the best interests of the Issuer without regard to their own financial or other interests.
- (iv) The Underwriters have a duty to purchase the Bonds from the Issuer at a fair and reasonable price, but must balance that duty with their duty to sell the Bonds to investors at prices that are fair and reasonable.
- (v) The Underwriter will review the official statement for the Bonds in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.

Additional Conflicts Disclosure

Davidson has not identified any additional potential or actual material conflicts that require disclosure Risk Disclosures Pursuant to MSRB Rule G-17 – Fixed Rate Bonds. The following is a general description of the financial characteristics and security structures of fixed rate municipal bonds ("Fixed Rate Bonds"), as well as a general description of certain financial risks that you should consider before deciding whether to issue Fixed Rate Bonds.

Financial Characteristics

Maturity and Interest. Fixed Rate Bonds are interest-bearing debt securities issued by state/local governments, political subdivisions, agencies and authorities. Maturity dates for Fixed Rate Bonds are fixed at the time of issuance and may include serial maturities (specified principal amounts payable on the same date in each year until final maturity) or one or more term maturities (specified principal amounts are payable on each term maturity date) or a combination of serial and term maturities. The final maturity date typically will range between 10 and 30 years from the date of issuance. Interest on Fixed Rate Bonds typically is paid semiannually at a stated fixed rate(s) for each maturity date.



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Redemption. Fixed Rate Bonds may be subject to optional redemption, which allows you, at your option, to redeem some or all of the bonds on a date prior to scheduled maturity, such as in connection with the issuance of refunding bonds to take advantage of lower interest rates.

Fixed Rate Bonds will be subject to optional redemption only after the passage of a specified period of time, often approximately ten years from the date of issuance, and upon payment of the redemption price set forth in the bonds, which may include a redemption premium. You will be required to send out a notice of optional redemption to the holders of the bonds, usually not less than 30 days prior to the redemption date. Fixed Rate Bonds with term maturity dates also may be subject to mandatory sinking fund redemption, which requires you to redeem specified principal amounts of the bonds annually in advance of the term maturity date. The mandatory sinking fund redemption price is 100% of the principal amount of the bonds to be redeemed.

Security

Payment of principal of and interest on a municipal security, including Fixed Rate Bonds, may be backed by various types of pledges and forms of security, some of which are described below.

Special Tax Revenue Bonds. The Bonds are debt securities that are payable only from a specific source or sources of revenues. The Bonds are not a pledge of your full faith and credit and you are obligated to pay principal and interest on the Bonds only from the revenue source(s) specifically pledged to the Bonds. The Bonds do not permit the bondholders to compel you to impose a tax levy or spend any funds for payment of debt service. Revenues will be derived from a pledge of gross revenue as defined in the Trust Indenture. If the specified sources of revenue become inadequate, a default in payment of principal or interest may occur.

The description above regarding "Security" is only a brief summary of certain possible security provisions for the bonds and is not intended as legal advice. You should consult with your bond counsel for further information regarding the security for the bonds.

Financial Risk Considerations

Certain risks may arise in connection with your issuance of Fixed Rate Bonds, including some or all of the following:

Default Risk. You may be in default if the funds pledged to secure your bonds are not sufficient to pay debt service on the bonds when due. The consequences of a default may be serious for you and, depending on applicable state law and the terms of the authorizing documents, the holders of the bonds, the trustee and any credit support provider may be able to exercise a range of available remedies against you. You may be required to take steps to increase the available revenues that are pledged as security for the bonds. A default also may occur if you are unable to comply with covenants or other provisions agreed to in connection with the issuance of the bonds.

This description is only a brief summary of issues relating to defaults and is not intended as legal advice. You should consult with your bond counsel for further information regarding defaults and remedies.

Redemption Risk. Your ability to redeem the bonds prior to maturity may be limited, depending on the terms of any optional redemption provisions. In the event that interest rates decline, you may be unable



to take advantage of the lower interest rates to reduce debt service.

Refinancing Risk. If your financing plan contemplates refinancing some or all of the bonds at maturity (for example, if you have term maturities or if you choose a shorter final maturity than might otherwise be permitted under the applicable federal tax rules), market conditions or changes in law may limit or prevent you from refinancing those bonds when required. Further, limitations in the federal tax rules on advance refunding of bonds (an advance refunding of bonds occurs when tax-exempt bonds are refunded more than 90 days prior to the date on which those bonds may be retired) may restrict your ability to refund the bonds to take advantage of lower interest rates.

Reinvestment Risk. You may have proceeds of the bonds to invest prior to the time that you are able to spend those proceeds for the authorized purpose. Depending on market conditions, you may not be able to invest those proceeds at or near the rate of interest that you are paying on the bonds, which is referred to as "negative arbitrage".

Tax Compliance Risk. The issuance of tax-exempt bonds is subject to a number of requirements under the United States Internal Revenue Code, as enforced by the Internal Revenue Service (IRS). You must take certain steps and make certain representations prior to the issuance of tax-exempt bonds. You also must covenant to take certain additional actions after issuance of the tax-exempt bonds. A breach of your representations or your failure to comply with certain tax-related covenants may cause the interest on the bonds to become taxable retroactively to the date of issuance of the bonds, which may result in an increase in the interest rate that you pay on the bonds or the mandatory redemption of the bonds.

The IRS also may audit you or your bonds, in some cases on a random basis and in other cases targeted to specific types of bond issues or tax concerns. If the bonds are declared taxable, or if you are subject to audit, the market price of your bonds may be adversely affected. Further, your ability to issue other tax-exempt bonds also may be limited.

This description of tax compliance risks is not intended as legal advice and you should consult with your bond counsel regarding tax implications of issuing the bonds.

If you or any other Issuer officials have any questions or concerns about these disclosures, please make those questions or concerns known immediately to the undersigned. In addition, you should consult with the Issuer's own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent you deem appropriate.

Limited Source of Funds. The Bonds, together with the interest thereon, are limited obligations of the Village, payable solely from special taxes (the "Special Taxes") and the amounts on deposit in the various funds and accounts established and maintained under the Indenture. The Bonds are not general obligations of the Village and do not constitute an indebtedness of the Village within the meaning of any constitutional or statutory limitation. No holder of the Bonds shall have the right to compel the exercise of any taxing power of the Village for payment of principal thereof or interest or premium, if any, thereon (other than the levy of the Special Taxes as provided in the Bond Ordinance and the Indenture).

Risk of Legislative and Judicial Changes. Future legislation, regulations, governmental or judicial interpretation of regulations or legislation or practices and procedures related to property tax, Special Taxes, levy, collections or distribution could have a material effect on the calculation or availability of the Special Taxes. There is no assurance that legislation will not be considered or enacted in the future, and



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unless provision is made in such legislation for special taxes generally in Illinois, the generation of the Special Taxes could be materially adversely affected.

Overlapping Indebtedness. The Special Taxes and any penalties assessed for failure to pay such taxes will constitute a lien against the parcels of land on which they will be levied until such taxes are paid. Such lien will be on a parity with all special taxes and special assessments which may be levied by other agencies and is co-equal to and independent of the lien for general ad valorem real property taxes regardless of when they are imposed upon the same property. The Village, however, has no control over the ability of other entities and districts to issue indebtedness secured by special taxes or special taxes payable from all or a portion of the property within the Area.

The ability of an owner of land within the Area to pay the Special Taxes could be adversely affected if additional debt is issued or additional taxes or special taxes are levied which are payable by the owners of land within the Area. The imposition of additional liens, whether public or private, may reduce the ability or willingness of the landowners to pay the special taxes and increases the possibility that foreclosure proceeds will not be adequate to pay delinquent Special Taxes.