


Village of Gilberts

Village Hall
87 Galligan Road, Gilberts, IL 60136
Ph. 847-428-2861 Fax: 847-428-2955
www.villageofgilberts.com

Village Administrator Memorandum 59-14

TO: President Rick Zirk
Board of Trustees

FROM: Ray Keller, Village Administrator 

DATE: August 29, 2014

RE: Village Board Meeting – September 2, 2014

The following summary discusses the agenda items for the Village Board meeting scheduled for September 2, 2014:

1. CALL TO ORDER

2. ROLL CALL / ESTABLISH QUORUM

3. PUBLIC COMMENT

4. CONSENT AGENDA

Any item may be removed from the consent agenda by request.

A. Motion to approve Minutes from the August 19, 2014 Village Board Meeting

Please review the enclosed minutes from the August 19 meeting. Please contact Village Clerk Debra Meadows prior to the meeting with any corrections or questions. Staff recommend approval.

B. Motion to approve Bills & Salaries dated September 2, 2014

Please refer to the enclosed spreadsheet, which lists the bills to be approved. If you need additional information about any of these bills, please contact me or Finance Director Marlene Blocker prior to the meeting. Staff recommend approval.

C. Motion to approve Resolution 37-2014, a Resolution approving the Executive Session Minutes

Staff recommend approval of the resolution releasing the February 4, February 11 and February 20, 2014 minutes to the public, approving but not releasing the minutes from two other executive sessions, and affirming the confidentiality of the minutes from 14 other executive sessions. Please contact Village Clerk Debra Meadows with any questions about the executive session minutes.

Public Works Facility
Finance & Building Departments
73 Industrial Drive, Gilberts, IL 60136
Ph. 847-428-4167 Fax: 847-551-3382

Police Department
86 Railroad St., Gilberts, IL 60136
Ph. 847-428-2954 Fax 847-428-4232

5. ITEMS FOR APPROVAL

A. Motion to approve Resolution 38-2014, amending Resolution 32-2014, a Resolution waiving competitive bidding requirements and authorizing an agreement between the Village of Gilberts and Phoenix & Associates to provide professional services for designing and constructing Gilberts Town Center Park Improvements

On June 17, 2014, the Village Board approved Resolution 32-2014, authorizing a contract with Phoenix & Associates to develop the Gilberts Town Center Park. The contract takes a “design-build” approach, with Phoenix working with the Village to finalize the design of the park and then acting as the general contractor for the completion of park improvements. The contract included earthwork and completion of storm water management facilities needed to properly drain the site; construction of a “pony league” baseball diamond; installation of splash park improvements, required supporting utilities and playground equipment; construction of a concession/restroom building including related utilities, and expansion of the existing parking lot. The project scope set a maximum cost to not exceed \$850,000.00.

As Phoenix progressed with the park development, cost estimates were refined to reflect actual bids received from subcontractors. Project cost adjustments include:

- The costs for the splash park and associated utilities were increased by \$38,185.00 due to higher costs for installing the water and sewer lines, including directional boring under Columbia Drive to reach the water main on the north side of the road. A Siamese connection was added to the design now to provide a water source for the ice rink; the Village can use a hose and save the future cost of extending a new water service to the ice rink. A 3-inch water meter was also added to track water usage over time.
- The playground cost was increased by \$12,000.00 to reflect additional fixtures (swing set, slides) that were preferred by the residents participating in our focus group review. The perimeter of the playground is also fixed by concrete curbing instead of a plastic border, providing a more permanent installation.
- The pavilion building was considerably more expensive than anticipated, resulting in a \$94,100.00 adjustment. The increases were primarily due to a higher ComEd connection charge. The plumbing, electric, masonry and fixture installation costs were also higher than anticipated in the original budget. This adjustment also adds 2,740 square feet of concrete sidewalk from the accessible parking spaces, around the perimeter of the building, to the far end of the playground/splash park area.
- The project cost also reflects a savings of \$41,500.00 from incorporating the grading for the baseball field into the earthwork costs for the entire park. Phoenix was able to minimize the disturbance to the playing surface and reduce the cost of this project sub element.

In total, completion of the park as described would require an additional \$102,785.00 to a new total of \$952,385.00. The adjusted total and component costs are shown on an updated Exhibit C to the Phoenix contract, which is provided for the Board’s consideration. The additional cost can be accommodated by two sources:

- Applying \$41,500.00 from the “contractual services” line in the Parks budget. This amount reflects the savings from terminating the agreements with Cemcon and Signature Design in favor of incorporating design costs into the Phoenix contract.
- Covering the remaining \$61,285.00 with Municipal Impact fees, which is the source of funding for the rest of the park project. Staff estimate that the revised total park cost will leave about \$53,000 in remaining municipal impact fees.

Staff recommend approving Resolution 38-2014, which would amend the original Resolution 32-2014 to reflect the increased contract total of \$952,385.00. The resolution would substitute the updated contract as “Exhibit A” to Resolution 32-2014. The amended contract references the new project cost in Section 5.1 (page 11) of the agreement and Exhibit C “Work Proposal.”

The amended contract also adjusts section 1.2 “Commencement and Completion Dates” by stating that “substantial completion” will be done by October, instead of September, 2014. The completion of the pavilion building and the splash park were delayed as their final designs and subcontractors were finalized, compounded by bad weather at the end of August. Phoenix and Village Staff can provide additional timeline updates at the meeting.

Because the original contract approval required approval by a two-thirds vote of the Village Board because it included a waiver of the competitive bidding process set forth in state statute, Staff advise that Resolution 38-2014 will also require two-thirds approval. Please contact me with any questions or requests for additional documentation that may be needed at the meeting.

6. ITEMS FOR DISCUSSION

Please contact me or President Zirk if there are any topics to be added for discussion at this meeting.

7. STAFF REPORTS

Staff will provide any updates at the meeting.

8. BOARD OF TRUSTEES REPORTS

9. PRESIDENT’S REPORT

10. EXECUTIVE SESSION

Staff request an executive session to discuss current and imminent litigation. Please contact me with any questions about other current closed session topics.

11. ADJOURNMENT

Village Board of Trustees
Meeting Agenda
Village of Gilberts
87 GALLIGAN ROAD,
GILBERTS, ILLINOIS 60136
September 2, 2014
7:00 P.M.
A G E N D A

ORDER OF BUSINESS

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

2. ROLL CALL / ESTABLISH QUORUM

3. PUBLIC COMMENT

4. CONSENT AGENDA

- A. A Motion to approve Minutes from the August 19, Village Board Meeting
- B. A Motion to approve Bills and Salaries dated September 2, 2014
- C. A Motion to approve Resolution 37-2014, a Resolution approving the Executive Session Minutes

5. ITEMS FOR APPROVAL

- A. A Motion to approve Resolution 38-2014, amending Resolution 32-2014, a Resolution waiving competitive bidding requirements and authorizing an agreement between the Village of Gilberts and Phoenix & Associates to provide professional services for designing and constructing Gilberts Town Center Park Improvements

6. ITEMS FOR DISCUSSION

7. STAFF REPORTS

8. BOARD OF TRUSTEES REPORTS

9. PRESIDENT'S REPORT

10. EXECUTIVE SESSION

A portion of the meeting will be closed to the Public, effective immediately as Permitted by 5 ILCS 120/2 (c) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Village, and as permitted by 5 ILCS 102/2 (c) (11) to discuss litigation against, affecting, or on behalf of the Village which has been filed and is pending in a court or administrative tribunal of which is imminent and as permitted by 5 ILCS 120/2 (c) (21) to review and approve closed session minutes and as permitted by 5 ILCS 120/2 (c) 2 Collective negotiating matters.

11. ADJOURNMENT

AUDIENCE PARTICIPATION

Anyone indicating a desire to speak during Public Comments will be acknowledged by the Village President. Please state your name, address and topic when called upon to speak. All remarks are to be addressed to the Village President and Board of Trustees as a whole, not to any specific person(s). Interrogation of the Village Staff, Village President, Village Board or any of their comments will not be allowed at this time. Personal invectives against Village Staff or Elected Officials are not permitted.

To ensure that everyone who wishes to speak has the opportunity to do so, please limit your comments to five minutes. Additional time may be granted at the discretion of the Village President.

If you have written comments, please provide a copy to the Village President. If there are a number of individuals present to speak on the same topic, please designate a spokesperson that can summarize the issue.

During Public Comments, the Village President, Trustees and Staff will listen to comments and will not engage in discussion. The Village President or Trustees may ask questions to better understand your concern, suggestion or request. Please direct any personnel concerns to the Village Administrator before or after the meeting.

"The Village of Gilberts complies with the Americans with Disabilities Act (ADA). For accessibility Assistance, please contact the Village Clerk at the Village Hall, telephone number 874/428-2861." *Assistive services will be provided upon request.*

Village of Gilberts
87 Galligan Road
Gilberts, IL 60136
Village Board
Meeting Minutes
August 19, 2014

APPROVED MINUTES

Call to Order/Pledge of Allegiance

President Zirk called the meeting to order at 7:00 p.m. He proceeded to lead those present in the Pledge of Allegiance.

Roll call/Establish Quorum

Village Clerk Meadows called the roll. Roll call: Members present: Trustees Corbett, Mierisch, Farrell, Hacker and President Zirk. Others present: Administrator Keller, Finance Director Blocker, Assistant Administrator Beith and Village Clerk Meadows. For members of the audience please see the attached sign-up sheet.

Public Comment

President Zirk inquired if anyone in the audience had any questions or comments they would like to share with the Board Members. There were no comments offered from any members of the audience.

Consent Agenda

- A. A Motion to approve Minutes from the August 5, Village Board Meeting
- B. A Motion to approve Minutes from the August 12, 2014 Committee of the Whole Meeting
- C. A motion to approve July 2014 Treasurer's Report
- D. A Motion to approve Bills and Salaries dated August 19, 2014 as follows: General Fund \$142,773.83, Developer Donations \$19,074.77, Performance Bonds and Escrows \$3,286.15, Water Fund \$164,224.60 and Payroll \$57,857.08.
- E. A Motion to approve Resolution 36-2014, a Resolution approving the 2014 Water Reclamation Facility-Facility Plan Amendment

President Zirk asked if there was any item on the consent agenda any of the Board Members would like removed for separate consideration and discussion. Trustee Hacker requested item 4.E. be removed from the consent agenda. **A Motion was made by Trustee Farrell and seconded by Trustee Hacker to approve the consent agenda items A-D as presented.** Roll call: Vote: 4-ayes: Trustees Corbett, Mierisch, Farrell and Hacker. 0-nays, 0-abstained. Motion carried.

A Motion to approve Resolution 36-2014, a Resolution approving the 2014 Water Reclamation Facility- Plan Amendment.

Trustee Hacker expressed his concern with the Water Reclamation Facility Plan Amendment's assumption which recommends raising the sewer rates by 3.32% compounded annually while the plans calls for tap on fees to remain constant. President Zirk understood Trustee Hacker's position on opposing increasing the sewer rate annually for twenty years. However, the current Water Reclamation Facility Plan approved by a past Village Board, IEPA and environmental advocacy groups obligates the Village to expand the WRF to 2.5 MGD at a cost of 20 million dollars. The amended plan reduces the construction cost and MGD in half. President Zirk and Trustee Hacker engaged in a lively debate with respect to the WRF plan amendments.

Trustee Zambetti arrived at 7:05 p.m.

President Zirk noted that when the original plan was approved in 2005 the housing market was booming and the population projections reflected the growth accordingly. However, when the housing market crashed the population growth rate became flat. The amended plan recommends phasing in the expansion improvements and reduces the capacity to 1.25 MGD.

President Zirk discussed the fact that he is not in favor of the residents being burdened with the cost of new development. He would prefer to see developers offset the cost with impact fees. There was some discussion with the proposed increase of the impact fees. Trustee Hacker directed staff to research what other surrounding communities' impact fees are currently. He would be more comfortable knowing that the proposed impact fee is compatible to the surrounding communities' fees.

President Zirk commented on Engineer Fisher's assumptions. He noted that in his opinion Engineer Fisher had taken a conservative approach to the WRF expansion cost and the funding options. President Zirk believed the IEPA would be supportive of the plan amendments.

President Zirk discussed the worst case scenario in which the Village doesn't plan for an expansion and the IEPA mandates the Village increase the Water Reclamation Facility capacity. Trustee Hacker was more optimistic that the sewer system would remain efficient and PE usage remains below the current systems capacity. Trustee Corbett inquired if there was a time constraint in which the WRF amendments needed to be approved. Administrator Keller replied no. However, Staff has been working with the IEPA and the environmental advocacy groups on the amendments for five years. There was some discussion on tabling this matter until Staff can provide the Board Members with additional information.

Trustee Mierisch reported that she was unable to attend the last meeting and was catching-up by reading the August 12th minutes. The minutes referenced that staff would be providing the Board Members with information on the water rate study at an upcoming meeting. She questioned if the Board Members should be provided that information prior to approving the WRF plan amendments. Administrator Keller noted that the WRF plan amendment is just a guidance tool and can be amended. The plan does not commit the Board to raising the sewer rate.

Trustee Zambetti and Trustee Farrell acknowledged that the plan amendments did not obligate the Board to raise the user fees. Trustee Hacker commented on the scenario if the Village was to move forward with the expansion and the economic environment slowed the cost of the expansion would fall on the users. President Zirk noted that in his opinion this is a viable plan and it reduces the Village's obligations by half.

There being no further discussion on this matter. **A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve Resolution 36-2014, a Resolution approving the 2014 Water Reclamation Facility Plan Amendment.** Roll call: Vote: 4-ayes: Trustees Mierisch, Zambetti, Farrell, Corbett. 1-nay: Trustee Hacker, 0-abstained. Motion carried.

Items for Approval

A Motion to approve Ordinance 16-2014, an Ordinance approving a Special Use Permit for Pub Rt. 72 to allow for an outdoor dining area on property zoned C-1 Commercial located at 36 E. Higgins.

Administrator Keller reported based on feedback from the August 12th Committee of the Whole meeting, the draft Ordinance was amended to clarify that "seated" service includes food and/or liquor, no bar may be placed in an outdoor seating area and maximum occupancy will be based on the number of seats that can be accommodated by the deck in accordance with the Village's building codes. Trustee Mierisch noted that she had read in the August 12th minutes that there would be no outdoor speakers allowed. Administrator Keller replied that information was accurate. The Ordinance prohibits the use of outdoor music, amplified sound, live performances or other noise and vibration generating activities.

There being no further discussion on this matter, **a Motion was made by Trustee Corbett and seconded by Trustee Zambetti to approve Ordinance 16-2014, an Ordinance approving a Special Use Permit for Pub Rt. 72 to allow for an outdoor dining area on property zoned C-1 Commercial located at 36 E. Higgins.** Roll call: Vote: 5-ayes: Trustee Zambetti, Farrell, Hacker, Corbett, and Mierisch. 0-nays, 0-abstained. Motion carried.

A Motion to approve Ordinance 17-2014, an Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control

Administrator Keller reported that approval of this Ordinance amended the liquor code to allow for outdoor liquor service. In addition, the Ordinance also amends the fees for special events. President Zirk noted that the allowance of outdoor dining and liquor service is a two part process a liquor establishment would have to petition the Village for a special use permit if granted they also would need to apply for an OS liquor license and pay the \$200.00 fee.

There being no further discussion on this matter, a Motion was made by Trustee Corbett and seconded by Trustee Farrell to approve Ordinance 17-2014, an Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control. Roll call: Vote: 5-ayes: Trustees Farrell, Hacker, Corbett, Mierisch and Zambetti. 0-nays, 0-abstained. Motion carried.

A Motion to approve Ordinance 18-2014, an Ordinance approving a Final Plan for Building III of the Prairie Business Park PUD and the Plat of Dedication for the Burnet Drive Right of Way.

Administrator Keller reported that Interstate Partners LLC has submitted a final plan for their Building III site, located at the southwest corner of the Prairie Business Park. Because Prairie Business Park was entitled a PUD final plans require Village Board approval before permits may be issued. The Plan Commission at their August 13th meeting recommended approval.

Interstate Partners will construct a 275,265 s.f. building that will extend across Lots 58 through 65. Access to the site will be provided by Burnet Drive to be located along sliver lots 57-58. The accompanying plat of dedication would grant the right of way to the Village for the road to be built by Interstate Partners.

Trustee Mierisch asked if buildings 1 and 2 had any vacancies. Mr. Possin responded yes, each building has one vacant unit. They are moving forward with the construction of building III to accommodate larger users. Trustee Mierisch expressed concerns with the fact that many communities have large abandoned buildings. Mr. Possin responded by saying Prairie Business Park construction is ahead of schedule and the community should receive TIF increments sooner than originally anticipated.

Trustee Mierisch noted that the August 12th Committee of the Whole minutes referenced a discussion with respect to the site's unacceptable appearance. Administrator Keller reported that after the meeting Chief Building Inspector Swedberg sent a violation notice to Mr. Reimer and copied Interstate Partners. Mr. Possin reported that they are working on addressing the violations noted in the letter.

Trustee Hacker asked when they planned to remove the large dirt pile which is covered with weeds. Mr. Possin replied some of the dirt will be used as fill for building III and the rest is slated to be used to balance the site. Once the site is balance they will be planting winter wheat or some other type of crop.

Trustee Hacker expressed concerns with the weeds in front of building I across from Arrowhead. Mr. Possin stated he will check in to this matter. A lengthy discussion ensued on ways in which Interstate Partners and Mr. Riemer could remediate the site conditions.

President Zirk questioned when the offsite improvements would be completed. Mr. Possin reported that the improvements would be completed prior to the December 31st deadline.

Trustee Mierisch commented on past experiences dealing with Mr. Riemer. She noted that he has a history of not complying with Village Ordinances until he is served notice. Mr. Possin defended Mr. Riemer and cited personal reasons for the delay in the maintenance of the site and the construction of the infrastructure. However, he now has resumed working on the project.

There was some discussion on the projection of lighting from building III. Administrator Keller stated that theoretically the lights could project on to the residential subdivision across the street. Mr. Possin reported that the berm would remain prohibiting building III's lights from projecting on to the residential subdivision.

President Zirk inquired on the construction timeline of the bike trail. Mr. Possin reported that the trail system is being phased in. The trail should be completed by 2016.

Administrator Keller reminded Mr. Possin that Interstate Partners will need to post the Performance Bond for building III.

There being no further discussion on this matter, **a Motion was made by Trustee Corbett and seconded by Trustee Zambetti to approve Ordinance 18-2014, an Ordinance approving a Final Plan for Building III of the Prairie Business Park PUD and the Plat of Dedication for the Burnet Drive Right of Way.** Roll call: Vote: 5-ayes: Trustees Hacker, Corbett, Mierisch, Zambetti and Farrell. 0-nays, 0-abstained. Motion carried.

Items for Discussion

There were no "Items for Discussion" listed on the agenda.

Staff Reports

Administrator Keller reported that he will be on vacation until next Thursday.

Board of Trustee Reports

Trustee Farrell inquired on the status of the Mason Road reconstruction. Administrator Keller reported that he is waiting to hear back from the City of Elgin's Staff.

Trustee Mierisch inquired if staff had responded to an email regarding concerns with Mason Road. Administrator Keller doesn't recall receiving the email in question. The Board Members realize that Staff was not copied on the email. The Board Members will forward the email on to Staff so they can respond on the Board Members behalf.

President's Report

There was some discussion on the City of Elgin boundary map on file with the Village. President Zirk reported that there were two exhibits one dated October, 2004 and the other dated November, 2004. The October exhibit was the one Staff used during the discussion concerning the soccer facility. However, the map dated November, 2004 was the map approved and depicts that the soccer club was in the Village of Gilberts planning boundaries. However, this error would have not changed Intra Soccer Club's desire to petition Kane County for the rezoning of said property and procurement of a Kane County Liquor License. Staff has since updated the October 2004 map to reflect the correct boundaries.

Ms. Barb Clayton, representing Tyrrell Family Farm LLC which is adjacent to the Prairie Business Park apologized for not requesting to speak during the public comment portion of the meeting. President Zirk allowed Ms. Clayton to address the Board. Ms. Clayton expressed concerns with the grading of the Prairie Business Park. She noted that the current grading is slopped and not level with their property's grade. In addition, she questioned the access point for their property. President Zirk noted that these concerns Ms. Clayton would need to address directly with Interstate Partners. Administrator Keller reported that the Final Plan approval is an administrative process. Her concerns were addressed in 2013 during the public hearings on the then proposed development.

Adjournment

The being no further business to discuss, **a Motion was made by Trustee Zambetti and seconded by Trustee Corbett to adjourn from the public meeting at 8:49 p.m.** Roll call: Vote: 5-ayes by unanimous voice vote. 0-nays, 0-abstained. Motion carried.

Respectfully submitted,
Debra Meadows

**RESOLUTION
VILLAGE OF GILBERTS
APPROVE EXECUTIVE SESSION MEETING MINUTES**

WHEREAS, the Village Board of the Village of Gilberts, has met from time to time in executive session for purposes authorized by the Illinois Open Meetings Act; and

WHEREAS, pursuant to 5 ILCS 120/2.06, the Village Board recently conducted its quarterly review of executive session meeting minutes and has determined that certain executive session minutes should be released to the public; and

WHEREAS, the Village Board has determined that the executive session minutes not yet released should remain confidential, subject to further review and determination as to their appropriateness for release at a future date.

NOW THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES, OF THE VILLAGE OF GILBERTS, KANE COUNTY, ILLINOIS AS FOLLOWS:

Section 1:

The Village Board has determined that the following approved executive session meeting minutes should now be released to the public:

RELEASED TO PUBLIC
February 4, 2014
February 11, 2014
February 20, 2014

Section 2:

The Village Board has determined that the following approved executive session minutes should remain confidential at this time, subject to further review and determination as to their appropriateness for release at a future date:

REMAIN CONFIDENTIAL
December 11, 2001
December 17, 2001
January 22, 2002
February 17, 2004
December 21, 2004
November 14, 2006
December 12, 2006
June 23, 2009 (Part 2)
July 14, 2009 (Part 2)
July 28, 2009
September 1, 2009

May 18, 2010
September 03, 2013
September 10, 2013

Section 3:

The Village Board hereby initially approves the following executive session minutes, which minutes will be scheduled for future review and determination as to whether to release to the public or keep confidential. Until such review, these meeting minutes shall remain confidential.

INITIAL APPROVAL – REMAIN CONFIDENTIAL
May 20, 2014
July 1, 2014

Section 4:

This Resolution shall take full force and effect upon its passage and approval as provided by law.

Passed this _____ day of _____, 2014 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClercq	_____	_____	_____	_____
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Louis Hacker	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Patricia Mierisch	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

Rick Zirk
Village President

(SEAL)

ATTEST:

Debra Meadows
Village Clerk

FINAL BILLS AND SALARIES

9/2/14

VENDOR	GRAND TOTAL	GENERAL FUND	DEVELOPER DONATIONS	PERMIT PASS THRU	PERFORMANCE BONDS AND ESCROWS	WATER FUND	PAYROLL
BILLS ADDED AFTER PACKETS							
	236,122.75	107,859.66	-	2,280.00	29,151.77	23,411.07	73,420.25
AZAVAR AUDIT SOLUTIONS, INC.	31.85	31.85					
THE BATTERY GUY, INC.	70.00	70.00					
COMMONWEALTH EDISON	44.60	44.60					
CURRENT TECHNOLOGIES, INC.	1,389.70	1,389.70					
FEDEX	20.20	20.20					
U.S. POSTAL SERVICE	500.00	500.00					
MACCARR, INC.	105.00	105.00					
MCHENRY ANALYTICAL WATER	321.00				321.00		
MENARDS - CARPENTERSVILLE	96.70	96.70					
NEXUS OFFICE SYSTEMS, INC.	124.57	124.57					
PRO AIR SERVICE, INC.	469.32				469.32		
SARGENTS EQUIPMENT	6.55	6.55					
SHERWIN INDUSTRIES, INC.	8,362.83	8,362.83					
STAPLES ADVANTAGE	51.05					51.05	
SUBURBAN LABORATORIES	100.00					100.00	
FRANCISCO & JOSEPHONIE JOCO	192.17	192.17					
CHAD WIGGINS & JEN TROAST	209.89	209.89					
RON SHERMAN	206.65	206.65					
V&A LANDSCAPING	58.00				58.00		
DANILO R. GARCIA, JR.	234.30	234.30					
KEN ROONEY	550.00	550.00					
OUTBACK BUILDERS	58.00				58.00		
AMERICAN DREAM HOME IMPROVEMENTS	58.00				58.00		
EDUARDO ANDRADE	58.00				58.00		
MARY A PLUMMER	58.00				58.00		
WRONA BROS. INC.	165.00	165.00					
PAYROLL 8-10 THRU 8-23	73,420.25						73,420.25
GALLAGHER-SEPT. INSURANCE	23,622.02	18,939.57				4,682.45	
ALEXANDER CHEMICAL CORPORATION	1,411.86					1,411.86	
ANCEL, GLINK, DIAMOND, BUSH,	6,223.22				6,223.22		
AT&T U-VERSE	75.00	75.00					
B&F CONSTRUCTION CODE SVC, INC	11,048.90	90.00		180.00	10,778.90		

Village of Gilberts	
Check Warrant Report	
Payroll Checks From 8/10/14 thru 8/23/14	
Employee Name:	Net Pay
Anderson, Mathew	843.49
Beith, William	1,445.44
Block, Todd J	1,847.19
Blocker, Marlene	1,461.22
Borgardt, Robert	21.84
Castillo, John	1,817.76
Danca, Karen	431.69
Davidowski, Susan	21.84
Gregory, Daniel	1,365.21
Haufe, Neal	484.58
Hernandez, Jason	313.56
Hill, Jeff R	1,599.72
Izydorski, Michael	1,181.69
Joswick, Michael	2,056.16
Keller, Raymond B.	2,450.25
Klaras, Jason	1,145.88
Koukol, Henry (Josh)	1,090.35
Levand, James A	1,131.02
Lorkowski, Michael	206.60
Macullis, Jerome	51.64
Meador, Eric E.	1,805.02
Meadows, Debra	1,539.13
Mills, Randall	23.09
Mueller, Steve	29.56
Puigar, Hector L	1,780.54
Ringa, Sean	132.41
Rodriguez, Vanessa	568.79
Rood, Jackie E. Jr	2,001.35
Rossi, Louis	1,766.83
Rowlett, Heather	447.00
Russell, Claudine	922.57
Schuring, Larry	966.13
Siegbahn, Lisa	914.49
Sullivan, Matthew	21.84
Swedberg, John L	2,155.98
Varas, Randy	1,501.36
Wittenauer, Robert	772.88
Payroll Liabilities:	
Federal Tax Deposits	15,314.95
Gilberts Police Benevolent	60.00
Gilberts Police Pension Fund	3,894.92
Illinois Department of Revenue	2,653.97
IMRF	9,416.95
IMRF SLEP	1,369.24
KCC State Disbursement Unit	162.04
SD1 State Disbursement Unit	341.60
SDU State Disbursement Unit	323.00
ICMA-RC	600.00
Gilberts M.A.P.	198.00
Central United Life Insurance	108.28
IMRF Voluntary Contribution	661.20
Total All Checks	73,420.25

**RESOLUTION
VILLAGE OF GILBERTS**

Resolution amending Resolution 32-2014, waiving competitive bidding requirements and authorizing an agreement between the Village of Gilberts and Phoenix & Associates to provide professional services for designing and constructing Gilberts Town Center Park Improvements

Now, be it resolved by the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

Section 1:

The Village of Gilberts hereby affirms its waiver of the competitive bidding requirements for this “public works” project and any related elements that may be subject to the requirements set forth by state statute 65 ILCS 5/8-9.

Section 2:

The Village of Gilberts hereby amends Resolution 32-2014 by replacing the attachments referenced as Exhibit A. Resolution 32-2014 remains in full force and effect except as expressly amended herein.”

Section 3:

This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

Passed this _____ day of _____, 2014 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClercq	_____	_____	_____	_____
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Louis Hacker	_____	_____	_____	_____
Trustee Patricia Mierisch	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS _____ DAY OF _____, 2014

Village President, Rick Zirk

(SEAL)

ATTEST: _____
Village Clerk, Debra Meadows

RESOLUTION

VILLAGE OF GILBERTS

Resolution waiving competitive bidding requirements and authorizing an agreement between the Village of Gilberts and Phoenix & Associates to provide professional services for designing and constructing Gilberts Town Center Park Improvements

WHEREAS, the Village of Gilberts desires to design and construct parks improvements at Gilberts Town Center Park, located at Tyrrell Road and Columbia Lane; and

WHEREAS, the Village desires to retain the services of Phoenix & Associates to effect a “design-build” approach to constructing parks and recreation improvements at Town Center Park; and

WHEREAS, projects defined as “public works” with a value greater than \$20,000.00 require a competitive bidding process set forth in state statute 65 ILCS 5/8-9, or a waiver of the competitive bidding process if approved by two-thirds of the Village Board; and

WHEREAS, the proposed agreement capitalizes on Phoenix & Associates’ knowledge and history of Gilberts, particularly their management of stormwater issues that are present at the subject park property, and their relationships with qualified subcontractors who may assist with the completion of the improvements;

Now, Be it Resolved by the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois that:

Section 1:

The Village of Gilberts hereby waives the competitive bidding requirements for this “public works” project and any related elements that may be subject to the requirements set forth by state statute 65 ILCS 5/8-9.

Section 2:

The Village of Gilberts hereby authorizes the Village President and Village Clerk to execute a Contract with Phoenix & Associates for Gilberts Town Center Park Improvements as attached hereto and made a part hereof as Exhibit A as approved.

Section 3:

This resolution shall be in full force and in effect from and after its passage and approval pursuant to law.

Passed this 17th day of June, 2014 by a roll call vote as follows:

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee David LeClercq	_____	_____	_____✓	_____
Trustee Dan Corbett	_____✓	_____	_____	_____
Trustee Nancy Farrell	_____✓	_____	_____	_____
Trustee Louis Hacker	_____✓	_____	_____	_____
Trustee Patricia Mierisch	_____✓	_____	_____	_____
Trustee Guy Zambetti	_____✓	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS 17th DAY OF June, 2014



Village President, Rick Zirk





Village Clerk, Debra Meadows

**CONTRACT BETWEEN
VILLAGE OF GILBERTS
AND
PHOENIX & ASSOCIATES
FOR
GILBERTS TOWN CENTER PARK IMPROVEMENTS**

In consideration of the mutual promises set forth below, the **VILLAGE OF GILBERTS**, 87 Galligan Road, GILBERTS, Illinois, a municipal corporation (“Owner”), and **PHOENIX & ASSOCIATES**, _____ (“Contractor”), make this Contract as of the 2nd day of Sept, 2014, and hereby agree as follows:

ARTICLE I
THE WORK

1.1 Performance of the Work

Contractor shall, at its sole cost and expense, provide, perform, and complete all of the following, all of which is herein referred to as the “Work”:

1. Labor, Equipment, Materials, and Supplies. Provide, perform, and complete, in the manner described and specified in this Contract, all necessary work, labor, services, transportation, equipment, materials, apparatus, machinery, tools, fuels, gas, electric, water, waste disposal, information, data, and other means and items necessary to accomplish the Work described in **Exhibit A**, depicted on the plans attached as **Exhibit B**, and contained in the Proposal attached as **Exhibit C** (“Work”).
2. Permits. Procure and furnish all permits, licenses, and other governmental approvals and authorizations necessary in connection therewith.
3. Bonds and Insurance. Procure and furnish all Bonds and all certificates and policies of insurance specified in this Contract.
4. Taxes. Pay all applicable federal, state, and local taxes.
5. Miscellaneous. Do all other things required of Contractor by this Contract, including, without limitation, arranging for utility and other services needed for the Work and for testing, including the installation of temporary utility lines, wiring, switches, fixtures, hoses, connections, and meters, and providing sufficient sanitary conveniences and shelters to accommodate all workers and all personnel of Owner engaged in the Work.
6. Quality. Provide, perform and complete all of the foregoing in a proper and workmanlike manner, consistent with the highest standards of professional and construction practices and in full compliance with, and as required by or pursuant to, this Contract, and with the greatest economy, efficiency, and expedition consistent therewith, with only new, undamaged and first quality equipment, materials, and supplies.

1.2 Commencement and Completion Dates

Contractor shall commence the Work and shall diligently and continuously prosecute the Work at such a rate as will allow the Work to be fully provided, performed, and completed in full compliance with this Contract. The time of commencement, rate of progress, and time of completion are referred to in this Contract as the "Contract Time."

Contractor will ensure substantial completion of the Work by ~~September~~ October 1, 2014, and final completion of the Work by December 1, 2014.

1.3 Required Submittals

A. Submittals Required. Contractor shall submit to Owner all documents, data, and information specifically required to be submitted by Contractor under this Contract and shall, in addition, submit to Owner all such drawings, specifications, descriptive information, and engineering documents, data, and information as may be required, or as may be requested by Owner, to show the details of the Work, including a complete description of all equipment, materials, and supplies to be provided under this Contract ("Required Submittals"). Such details shall include, but shall not be limited to, design data, structural and operating features, principal dimensions, space required or provided, clearances required or provided, type and brand of finish, and all similar matters, for all components of the Work.

B. Number and Format. Contractor shall provide three complete sets for each Required Submittal, as required by Owner and/or Engineer. All drawings shall be clearly marked in the lower right-hand corner with the names of Owner and Contractor.

C. Time of Submission and Owner's Review. All Required Submittals shall be provided to Owner no later than the time, if any, specified in this Contract for their submission or, if no time for submission is specified, in sufficient time, in Owner's sole opinion, to permit Owner to review the same prior to the commencement of the part of the Work to which they relate and prior to the purchase of any equipment, materials, or supplies that they describe. Owner shall have the right to require such corrections as may be necessary to make such submittals conform to this Contract. All such submittals shall, after final processing and review with no exception noted by Owner, become a part of this Contract. Owner's review and stamping of any Required Submittal shall be for the sole purpose of examining the general management, design, and details of the proposed Work, shall not relieve Contractor of the entire responsibility for the performance of the Work in full compliance with, and as required by or pursuant to this Contract, and shall not be regarded as any assumption of risk or liability by Owner.

It is understood that the contract includes many features which will be completed through a "Design Build Process". It is further understood that Owner has allowed Contractor to commence certain portions of underground and due diligence work in order to provide the Owner with proper baseline information to complete the project. Record drawings will take into account any work rendered related to the Work.

D. Responsibility for Delay. Contractor shall be responsible for any delay in the Work due to delay in providing Required Submittals conforming to this Contract.

1.4 Review and Interpretation of Contract Provisions

Contractor represents and warrants that it has carefully reviewed this Contract, including all of its Attachments, all of which are by this reference incorporated into and made a part of this Contract. Contractor shall, at no increase in the Contract Price, provide workmanship, equipment, materials, and supplies that fully conform to this Contract. Whenever any equipment, materials or supplies are specified or described in this Contract by using the name or other identifying feature of a proprietary product or the name or other identifying feature of a particular manufacturer or vendor, the specific item mentioned shall be understood as establishing the type, function and quality desired. Other manufacturers' or vendors' products may be accepted, provided that the products proposed are equivalent in substance and function to those named as determined by Owner in its sole and absolute discretion.

Contractor shall promptly notify Owner of any discrepancy, error, omission, ambiguity, or conflict among any of the provisions of this Contract before proceeding with any Work affected thereby. If Contractor fails to give such notice to Owner, then the subsequent decision of Owner as to which provision of this Contract shall govern shall be final, and any corrective work required shall not entitle Contractor to any damages, to any compensation in excess of the Contract Price, or to any delay or extension of the Contract Time.

When the equipment, materials, or supplies furnished by Contractor cannot be installed as specified in this Contract, Contractor shall, without any increase in the Contract Price, make all modifications required to properly install the equipment, materials, or supplies. Any such modification shall be subject to the prior review and consent of Owner.

1.5 Conditions at the Work Site; Record Drawings

Contractor represents and warrants that it has had a sufficient opportunity to conduct a thorough investigation of the Work Site and the surrounding area and has completed such investigation to its satisfaction. Contractor shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time based upon conditions found at, or in the vicinity of, the Work Site. When information pertaining to subsurface, underground or other concealed conditions, soils analysis, borings, test pits, utility locations or conditions, buried structures, condition of existing structures, and other investigations is or has been provided by Owner, or is or has been otherwise made available to Contractor by Owner, such information is or has been provided or made available solely for the convenience of Contractor and is not part of this Contract. Owner assumes no responsibility whatever in respect to the sufficiency or accuracy of such information, and there is no guaranty or warranty, either expressed or implied, that the conditions indicated are representative of those existing throughout the Work or the Work

Site, or that the conditions indicated are representative of those existing at any particular location, or that the conditions indicated may not change, or that unanticipated conditions may not be present.

Contractor shall be solely responsible for locating all existing underground installations by prospecting no later than two workdays prior to any scheduled excavation or trenching, whichever is earlier. Contractor shall check all dimensions, elevations, and quantities indicated in this Contract within the same time period as set forth above for prospecting underground installations. Contractor shall lay out the Work in accordance with this Contract and shall establish and maintain such locations, lines and levels. Wherever pre-existing work is encountered, Contractor shall verify and be responsible for dimensions and location of such preexisting work. Contractor shall notify Owner of any discrepancy between the dimensions, elevations and quantities indicated in this Contract and the conditions of the Work Site or any other errors, omissions or discrepancies which Contract may discover during such inspections. Full instructions will be furnished by Owner should such error, omission, or discrepancy be discovered, and Contractor shall carry out such instructions as if originally specified and without any increase in Contract Price.

Before Final Acceptance of the Work, Contractor shall submit to Owner two sets of Drawings of Record, unless a greater number is specified elsewhere in this Contract, indicating all field deviations.

1.6 Technical Ability to Perform

Contractor represents and warrants that it is sufficiently experienced and competent, and has the necessary capital, facilities, plant, organization, and staff, to provide, perform and complete the Work in full compliance with, and as required by or pursuant to, this Contract.

1.7 Financial Ability to Perform

Contractor represents and warrants that it is financially solvent, and Contractor has the financial resources necessary to provide, perform and complete the Work in full compliance with, and as required by or pursuant to, this Contract.

1.8 Time

Contractor represents and warrants that it is ready, willing, able and prepared to begin the Work on the Commencement Date and that the Contract Time is sufficient time to permit completion of the Work in full compliance with, and as required by or pursuant to, this Contract for the Contract Price, all with due regard to all natural and man-made conditions that may affect the Work or the Work Site and all difficulties, hindrances, and delays that may be incident to the Work.

1.9 Safety at the Work Site

Contractor shall be solely and completely responsible for providing and maintaining safe conditions at the Work Site, including the safety of all persons and property during performance of the Work. This requirement shall apply continuously and shall not be limited to normal working hours. Contractor shall take all safety precautions as shall be necessary to comply with all applicable laws and to prevent injury to persons and damage to property.

Contractor shall conduct all of its operations without interruption or interference with vehicular and pedestrian traffic on public and private rights-of-way, unless it has obtained permits therefor from the proper authorities. If any public or private right-of-way shall be rendered unsafe by Contractor's operations, Contractor shall make such repairs or provide such temporary ways or guards as shall be acceptable to the proper authorities.

1.10 Cleanliness of the Work Site and Environs

Contractor shall keep the Work Site and adjacent areas clean at all times during performance of the Work and shall, upon completion of the Work, leave the Work Site and adjacent areas in a clean and orderly condition.

1.11 Damage to the Work, the Work Site, and Other Property

The Work and everything pertaining thereto shall be provided, performed, completed, and maintained at the sole risk and cost of Contractor from the Commencement Date until Final Payment. Contractor shall be fully responsible for the protection of all public and private property and all persons. Without limiting the foregoing, Contractor shall, at its own cost and expense, provide all permanent and temporary shoring, anchoring and bracing required by the nature of the Work in order to make all parts absolutely stable and rigid, even when such shoring, anchoring and bracing is not explicitly specified, and support and protect all buildings, bridges, roadways, conduits, wires, water pipes, gas pipes, sewers, pavements, curbs, sidewalks, fixtures and landscaping of all kinds and all other public or private property that may be encountered or endangered in providing, performing and completing the Work. Contractor shall have no claim against Owner because of any damage or loss to the Work or to Contractor's equipment, materials, or supplies from any cause whatsoever, including damage or loss due to simultaneous work by others. Contractor shall, promptly and without charge to Owner, repair or replace, to the satisfaction of Owner, any damage done to, and any loss suffered by, the Work and any damage done to, and any loss suffered by, the Work Site or other property as a result of the Work. Notwithstanding any other provision of this Contract, Contractor's obligations under this Section shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of Owner or Contractor, to indemnify, hold harmless, or reimburse Contractor for the cost of any repair or replacement work required by this Section.

1.12 Subcontractors and Suppliers

AMENDED 9-2-14

A. Approval and Use of Subcontractors and Suppliers. Contractor shall perform the Work with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by Owner in writing. All subcontractors, suppliers, and subcontracts used by Contractor shall be acceptable to, and approved in advance by, Owner. Owner's approval of any subcontractor, supplier, and subcontract shall not relieve Contractor of full responsibility and liability for the provision, performance, and completion of the Work in full compliance with, and as required by or pursuant to, this Contract. All Work performed under any subcontract shall be subject to all of the provisions of this Contract in the same manner as if performed by employees of Contractor. Every reference in this Contract to "Contractor" shall be deemed also to refer to all subcontractors and suppliers of Contractor. Every subcontract shall include a provision binding the subcontractor or supplier to all provisions of this Contract.

B. Removal of Subcontractors and Suppliers. If any subcontractor or supplier fails to perform the part of the Work undertaken by it in a manner satisfactory to Owner, Contractor shall immediately upon notice from Owner terminate such subcontractor or supplier. Contractor shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such termination.

1.13 Simultaneous Work By Others

Owner shall have the right to perform or have performed such other work as Owner may desire in, about, or near the Work Site during the performance of the Work by Contractor. Contractor shall make every reasonable effort to perform the Work in such manner as to enable both the Work and such other work to be completed without hindrance or interference from each other. Contractor shall afford Owner and other contractors reasonable opportunity for the execution of such other work and shall properly coordinate the Work with such other work.

1.14 Occupancy Prior to Final Payment

Owner shall have the right, at its election, to occupy, use, or place in service any part of the Work prior to Final Payment. Such occupancy, use, or placement in service shall be conducted in such manner as not to damage any of the Work or to unreasonably interfere with the progress of the Work. No such occupancy, use, or placement in service shall be construed as an acceptance of any of the Work or a release or satisfaction of Contractor's duty to insure and protect the Work, not shall it, unless conducted in an unreasonable manner, be considered as an interference with Contractor's provision, performance, or completion of the Work.

1.15 Owner's Right to Terminate or Suspend Work for Convenience

A. Termination or Suspension for Convenience. Owner shall have the right, for its convenience, to terminate or suspend the Work in whole or in part at any time by written notice to Contractor, provided that Contractor shall have the right to notice and

AMENDED 9-2-14

cure for any deficiency prior to any such termination, as provided in Section 6.3 of this Contract. Every such notice shall state the extent and effective date of such termination or suspension. On such effective date, Contractor shall, as and to the extent directed, stop Work under this Contract, cease all placement of further orders or subcontracts, terminate or suspend Work under existing orders and subcontracts, cancel any outstanding orders or subcontracts that may be cancelled, and take any action necessary to protect any property in its possession in which Owner has or may acquire any interest and to dispose of such property in such manner as may be directed by Owner.

B. Payment for Completed Work. In the event of any termination pursuant to Subsection 1.15A above, Owner shall pay Contractor (1) such direct costs, excluding overhead, as Contractor shall have paid or incurred for all Work done in compliance with, and as required by or pursuant to, this Contract up to the effective date of termination together with ten percent of such costs for overhead and profit; and (2) such other costs pertaining to the Work, exclusive of overhead and profit, as Contractor may have reasonably and necessarily incurred as the result of such termination. Any such payment shall be offset by any prior payment or payments and shall be subject to Owner's rights to withhold and deduct as provided in this Contract.

ARTICLE II CHANGES AND DELAYS

2.1 Changes

Owner shall have the right, by written order executed by Owner, to make changes in the Contract, the Work, the Work Site, and the Contract Time ("Change Order"). If any Change Order causes an increase or decrease in the amount of the Work, an equitable adjustment in the Contract Price or Contract Time may be made. All claims by Contractor for an equitable adjustment in either the Contract Price or the Contract Time shall be made within two business days following receipt of such Change Order, and shall, if not made prior to such time, be conclusively deemed to have been waived. No decrease in the amount of the Work caused by any Change Order shall entitle Contractor to make any claim for damages, anticipated profits, or other compensation.

2.2 Delays

A. Extensions for Unavoidable Delays. For any delay that may result from causes that could not be avoided or controlled by Contractor, Contractor shall, upon timely written application, be entitled to issuance of a Change Order providing for an extension of the Contract Time for a period of time equal to the delay resulting from such unavoidable cause. No extension of the Contract Time shall be allowed for any other delay in completion of the Work.

B. No Compensation for Delays. No payment, compensation, damages, or adjustment of any kind, other than the extension of the Contract Time provided in Subsection 2.2A above, shall be made to, or claimed by, Contractor because of hindrances

or delays from any cause in the commencement, prosecution, or completion of the Work, whether caused by Owner or any other party and whether avoidable or unavoidable.

ARTICLE III
CONTRACTOR'S RESPONSIBILITY FOR DEFECTIVE WORK

3.1 Inspection; Testing; Correction of Defects

A. Inspection. Until Final Payment, all parts of the Work shall be subject to inspection and testing by Owner or its designated representatives. Contractor shall furnish, at its own expense, all reasonable access, assistance, and facilities required by Owner for such inspection and testing.

B. Re-Inspection. Re-inspection and re-testing of any Work may be ordered by Owner at any time, and, if so ordered, any covered or closed Work shall be uncovered or opened by Contractor. If the Work is found to be in full compliance with this Contract, then Owner shall pay the cost of uncovering, opening, re-inspecting, or re-testing, as the case may be. If such Work is not in full compliance with this Contract, then Contractor shall pay such cost.

C. Correction. Until Final Payment, Contractor shall, promptly and without charge, repair, correct, or replace all or any part of the Work that is defective, damaged, flawed, or unsuitable or that in any way fails to conform strictly to the requirements of this Contract.

3.2 Warranty of Work

A. Scope of Warranty. Contractor warrants that the Work and all of its components shall be free from defects and flaws in design, workmanship, and materials; shall strictly conform to the requirements of this Contract; and shall be fit, sufficient and suitable for the purposes expressed in, or reasonably inferred from, this Contract. The warranty herein expressed shall be in addition to any other warranties expressed in this Contract, or expressed or implied by law, which are hereby reserved unto Owner.

B. Repairs; Extension of Warranty. Contractor shall, promptly and without charge, correct any failure to fulfill the above warranty that may be discovered or develop at any time within one year after Final Payment or such longer period as may be prescribed by law. The above warranty shall be extended automatically to cover all repaired and replacement parts and labor provided or performed under such warranty and Contractor's obligation to correct Work shall be extended for a period of one year from the date of such repair or replacement. The time period established in this Subsection 3.2B relates only to the specific obligation of Contractor to correct Work and shall not be construed to establish a period of limitation with respect to other obligations that Contractor has under this Contract.

C. Subcontractor and Supplier Warranties. Whenever a subcontractor or supplier is required to provide a guaranty or warranty, Contractor shall be solely responsible

for obtaining said guaranty or warranty in form satisfactory to Owner and assigning said warranty or guaranty to Owner. Acceptance of any assigned warranties or guaranties by Owner shall be a precondition to Final Payment and shall not relieve Contractor of any of its guaranty or warranty obligations under this Contract.

3.3 Owner's Right to Correct

If, within two business days after Owner gives Contractor notice of any defect, damage, flaw, unsuitability, nonconformity, or failure to meet warranty subject to correction by Contractor pursuant to Section 3.1 or Section 3.2 of this Contract, Contractor neglects to make, or undertake with due diligence to make, the necessary corrections, then Owner shall be entitled to make, either with its own forces or with contract forces, the corrections and to recover from Contractor all resulting costs, expenses, losses, or damages, including attorneys' fees and administrative expenses.

**ARTICLE IV
FINANCIAL ASSURANCES**

4.1 Bonds

Contemporaneous with Contractor's execution of this Contract, Contractor shall provide a Performance Bond and a Labor and Material Payment Bond, on forms provided by, or otherwise acceptable to, Owner, from a surety company licensed to do business in the State of Illinois with a general rating of A minus and a financial size category of Class X or better in Best's Insurance Guide, each in the penal sum of the Contract Price ("Bonds"). Contractor shall, at all times while providing, performing, or completing the Work, including, without limitation, at all times while correcting any failure to meet warranty pursuant to Section 3.2 of this Contract, maintain and keep in force, at Contractor's expense, the Bonds required hereunder.

4.2 Insurance

Contemporaneous with Contractor's execution of this Contract, Contractor shall provide certificates and policies of insurance evidencing the minimum insurance coverages and limits set forth in Subsection 4.2A. below. For good cause shown, Owner may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as Owner may impose in the exercise of its sole discretion. Such policies shall be in a form, and from companies, acceptable to Owner. Such insurance shall provide that no change, modification in, or cancellation of any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to Owner. Contractor shall, at all times while providing, performing, or completing the Work, including, without limitation, at all times while correcting any failure to meet warranty pursuant to Section 3.2 of this Contract, maintain and keep in force, at Contractor's expense, the minimum insurance coverages and limits set forth in Subsection 4.2A. below.

AMENDED 9-2-14

A. Minimum Coverages. Unless otherwise provided in the Special Provisions of Contract, Contractor shall, prior to and at all times while providing, performing, or completing the Work, procure, maintain, and keep in force, at Contractor's expense, at least the following minimum insurance coverages:

1. Workmen's Compensation: The Contractor is required to carry, with a company authorized under the laws of the State of Illinois, a policy for protection against liability under the Workman's Compensation and the Occupational Disease Statutes of the State of Illinois.
2. Comprehensive Motor Vehicle Liability Insurance: The Contractor shall carry a policy under a comprehensive for to insure the entire automobile liability for the operation with limits of not less than \$1,000,000 each accident for bodily injury and not less than \$1,000,000 each accident for property damage liability.
3. Comprehensive General Liability: The Contractor shall carry a comprehensive general liability policy for all operations with limits of not less than \$1,000,000 per claim, and not less than \$2,000,000 aggregate.
4. Excess Umbrella Liability: The Contractor shall carry an excess umbrella liability policy for all operations with limits of not less than \$5,000,000 per claim, and not less than \$5,000,000 aggregate.

All such insurance must include an endorsement whereby the insurer agrees to notify the Owner at least 30 days prior to non-renewal, reduction, or cancellation of any policy. The Contractor shall cease operations on the project if the insurance is cancelled or reduced below the required amount of coverage.

B. Additional Coverages. The insurance coverages and limits required by Section 4.2.A. above shall be deemed to be minimum coverages and limits and shall not be construed in any way as a limitation on Contractor's duty to carry adequate insurance as required by section 4.2 above or on Contractor's liability for losses and damages under this Contract. Contractor shall at all times carry such additional coverages and limits as may be necessary to fully comply with this contract.

C. Subcontractor Insurance. Unless otherwise provided in the Special Provisions of Contract or unless otherwise approved by Owner, Contractor shall not allow any Subcontractor to commence or continue any part of the Work until and unless such Subcontractor provides and has in force insurance coverages equal to those of Contractor by this Section.

4.3 Indemnification

Contractor shall indemnify, save harmless, and defend Owner against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that may arise, or be alleged to have arisen, out of or in connection with Contractor's performance of, or failure to perform, the Work or any part thereof, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of Contractor, except to the extent caused by the sole negligence of Owner.

**ARTICLE V
PAYMENT**

5.1 Contract Price

Owner shall pay to Contractor, in accordance with and subject to the terms and conditions set forth in this Article V, and Contractor shall accept in full satisfaction for providing, performing, and completing the Work, a not-to-exceed amount of ~~850,000.00~~ **\$953,000.00** (the "Contract Price"), subject to any additions, deductions, or withholdings provided for in this Contract.

5.2 Taxes and Benefits

Owner is exempt from and shall not be responsible to pay, or reimburse Contractor for, any state or local sales, use, or excise taxes. The Contract Price includes all other applicable federal, state, and local taxes of every kind and nature applicable to the Work as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or other similar benefits. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, or premium is hereby waived and released by Contractor.

5.3 Progress Payments

A. Payment in Installments. The Contract Price shall be paid in installments on a monthly basis, pursuant to Pay Requests as set forth in subsection 5.3B. ("Progress Payments").

B. Pay Requests. Contractor shall, as a condition precedent to its right to receive each Progress Payment, submit to Owner a pay request in the form provided by Owner ("Pay Request"). The first Pay Request shall be submitted not sooner than 30 days following commencement of the Work. Owner may, by written notice to Contractor, designate a specific day of each month on or before which Pay Requests must be submitted. Each Pay Request shall include (a) Contractor's certification of the value of, and partial or final waivers of lien covering, all Work for which payment is then requested and (b) Contractor's certification that all prior Progress Payments have been properly applied to the payment or reimbursement of the costs with respect to which they were paid.

C. Work Entire. This Contract and the Work are entire and the Work as a whole is of the essence of this Contract. Notwithstanding any other provision of this Contract, each and every part of this Contract and of the Work are interdependent and common to one another and to Owner's obligation to pay all or any part of the Contract Price or any other consideration for the Work. Any and all Progress Payments made pursuant to this Article are provided merely for the convenience of Contractor and for no other purpose.

5.4 Final Acceptance and Final Payment

A. Notice of Completion. When the Work has been completed and is ready in all respects for acceptance by Owner, Contractor shall notify Owner and request a final inspection ("Notice of Completion"). Contractor's Notice of Completion shall be given sufficiently in advance of the Completion Date to allow for scheduling of the final inspection and for completion or correction before the Completion Date of any items identified by such inspection as being defective, damaged, flawed, unsuitable, nonconforming, incomplete, or otherwise not in full compliance with, or as required by or pursuant to, this Contract ("Punch List Work").

B. Punch List and Final Acceptance. The Work shall be finally accepted when, and only when, the whole and all parts thereof shall have been completed to the satisfaction of Owner in full compliance with, and as required by or pursuant to, this Contract. Upon receipt of Contractor's Notice of Completion, Owner shall make a review of the Work and notify Contractor in writing of all Punch List Work, if any, to be completed or corrected. Following Contractor's completion or correction of all Punch List Work, Owner shall make another review of the Work and prepare and deliver to Contractor either a written notice of additional Punch List Work to be completed or corrected or a written notice of final acceptance of the Work ("Final Acceptance").

C. Final Payment. As soon as practicable after Final Acceptance, Contractor shall submit to Owner a properly completed final Pay Request in the form provided by Owner ("Final Pay Request"). Owner shall pay to Contractor the balance of the Contract Price, after deducting therefrom all charges against Contractor as provided for in this Contract ("Final Payment"). Final Payment shall be made not later than 60 days after Owner approves the Final Pay Request. The acceptance by Contractor of Final Payment shall operate as a full and complete release of Owner of and from any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses of, by, or to Contractor for anything done, furnished for, arising out of, relating to, or in connection with the Work or for or on account of any act or neglect of Owner arising out of, relating to, or in connection with the Work.

5.5 Liens

A. Title. Nothing in this Contract shall be construed as vesting in Contractor any right of property in any equipment, materials, supplies, and other items provided under this Contract after they have been installed in, incorporated into, attached to, or affixed to, the Work or the Work Site. All such equipment, materials, supplies, and other items shall, upon being so installed, incorporated, attached or affixed, become the property

AMENDED 9-2-14

of Owner, but such title shall not release Contractor from its duty to insure and protect the Work in accordance with the requirements of this Contract.

B. Waivers of Lien. Contractor shall, from time to time at Owner's request and in any event prior to Final Payment, furnish to Owner such receipts, releases, affidavits, certificates, and other evidence as may be necessary to establish, to the reasonable satisfaction of Owner, that no lien against the Work or the public funds held by Owner exists in favor of any person whatsoever for or by reason of any equipment, material, supplies, or other item furnished, labor performed, or other thing done in connection with the Work or this Contract ("Lien") and that no right to file any Lien exists in favor of any person whatsoever.

C. Removal of Liens. If at any time any notice of any Lien is filed, then Contractor shall, promptly and without charge, discharge, remove, or otherwise dispose of such Lien. Until such discharge, removal, or disposition, Owner shall have the right to retain from any money payable hereunder an amount that Owner, in its sole judgment, deems necessary to satisfy such Lien and to pay the costs and expenses, including attorneys' fees and administrative expenses, of any actions brought in connection therewith or by reason thereof.

D. Protection of Owner Only. This Section shall not operate to relieve Contractor's surety or sureties from any of their obligations under the Bonds, nor shall it be deemed to vest any right, interest, or entitlement in any subcontractor or supplier. Owner's retention of funds pursuant to this Section shall be deemed solely for the protection of its own interests pending removal of such Liens by Contractor, and Owner shall have no obligation to apply such funds to such removal but may, nevertheless, do so where Owner's interests would thereby be served.

5.6 Deductions

A. Owner's Right to Withhold. Notwithstanding any other provision of this Contract and without prejudice to any of Owner's other rights or remedies, Owner shall have the right at any time or times, whether before or after approval of any Pay Request, to deduct and withhold from any Progress or Final Payment that may be or become due under this Contract such amount as may reasonably appear necessary to compensate Owner for any actual or prospective loss due to: (1) Work that is defective, damaged, flawed, unsuitable, nonconforming, or incomplete; (2) damage for which Contractor is liable under this Contract; (3) state or local sales, use, or excise taxes from which Owner is exempt; (4) Liens or claims of Lien regardless of merit; (5) claims of subcontractors, suppliers, or other persons regardless of merit; (6) delay in the progress or completion of the Work; (7) inability of Contractor to complete the Work; (8) failure of Contractor to properly complete or document any Pay Request; (9) any other failure of Contractor to perform any of its obligations under this Contract; or (1) the cost to Owner, including attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of Owner's remedies set forth in Section 6.3 of this Contract.

B. Use of Withheld Funds. Owner shall be entitled to retain any and all amounts withheld pursuant to Subsection 5.6A above until Contractor shall have either performed the obligations in question or furnished security for such performance satisfactory to Owner. Owner shall be entitled to apply any money withheld or any other money due Contractor under this Contract to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, attorneys' fees and administrative expenses incurred, suffered, or sustained by Owner and chargeable to Contractor under this Contract.

ARTICLE VI
DISPUTES AND REMEDIES

6.1 Dispute Resolution Procedure

A. Notice of Disputes and Objections. If Contractor disputes or objects to any requirement, direction, instruction, interpretation, determination, or decision of Owner, Contractor may notify Owner in writing of its dispute or objection and of the amount of any equitable adjustment to the Contract Price or Contract Time to which Contractor claims it will be entitled as a result thereof; provided, however, that Contractor shall, nevertheless, proceed without delay to perform the Work as required, directed, instructed, interpreted, determined, or decided by Owner, without regard to such dispute or objection. Unless Contractor so notifies Owner within two business days after receipt of such requirement, direction, instruction, interpretation, determination, or decision, Contractor shall be conclusively deemed to have waived all such disputes or objections and all claims based thereon.

B. Negotiation of Disputes and Objections. To avoid and settle without litigation any such dispute or objection, Owner and Contractor agree to engage in good faith negotiations. Within three business days after Owner's receipt of Contractor's written notice of dispute or objection, a conference between Owner and Contractor shall be held to resolve the dispute. Within three business days after the end of the conference, Owner shall render its final decision, in writing, to Contractor. If Contractor objects to the final decision of Owner, then it shall, within three business days, give Owner notice thereof and, in such notice, shall state its final demand for settlement of the dispute. Unless Contractor so notifies Owner, Contractor shall be conclusively deemed (1) to have agreed to and accepted Owner's final decision and (2) to have waived all claims based on such final decision.

6.2 Contractor's Remedies

If Owner fails or refuses to satisfy a final demand made by Contractor pursuant to Section 6.1 of this Contract, or to otherwise resolve the dispute which is the subject of such demand to the satisfaction of Contractor, within ten days following receipt of such demand, then Contractor shall be entitled to pursue such remedies, not inconsistent with the provisions of this Contract, as it may have in law or equity.

6.3 Owner's Remedies

AMENDED 9-2-14

If it should appear at any time prior to Final Payment that Contractor has failed or refused to prosecute, or has delayed in the prosecution of, the Work with diligence at a rate that assures completion of the Work in full compliance with the requirements of this Contract on or before the Completion Date, or has attempted to assign this Contract or Contractor's rights under this Contract, either in whole or in part, or has falsely made any representation or warranty in this Contract, or has otherwise failed, refused, or delayed to perform or satisfy any other requirement of this Contract or has failed to pay its debts as they come due ("Event of Default"), and has failed to cure any such Event of Default within five business days after Contractor's receipt of written notice of such Event of Default, unless such cure period is extended by mutual agreement of the Parties, then Owner shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Owner may require Contractor, within such reasonable time as may be fixed by Owner, to complete or correct all or any part of the Work that is defective, damaged, flawed, unsuitable, nonconforming, or incomplete; to remove from the Work Site any such Work; to accelerate all or any part of the Work; and to take any or all other action necessary to bring Contractor and the Work into strict compliance with this Contract.
2. Owner may perform or have performed all Work necessary for the accomplishment of the results stated in Paragraph 1 above and withhold or recover from Contractor all the cost and expense, including attorneys' fees and administrative costs, incurred by Owner in connection therewith.
3. Owner may accept the defective, damaged, flawed, unsuitable, nonconforming, incomplete, or dilatory Work or part thereof and make an equitable reduction in the Contract Price.
4. Owner may terminate this Contract without liability for further payment of amounts due or to become due under this Contract.
5. Owner may, without terminating this Contract, terminate Contractor's rights under this Contract and, for the purpose of completing or correcting the Work, evict Contractor and take possession of all equipment, materials, supplies, tools, appliances, plans, specifications, schedules, manuals, drawings, and other papers relating to the Work, whether at the Work Site or elsewhere, and either complete or correct the Work

AMENDED 9-2-14

with its own forces or contracted forces, all at Contractor's expense.

6. Upon any termination of this Contract or of Contractor's rights under this Contract, and at Owner's option exercised in writing, any or all subcontracts and supplier contracts of Contractor shall be deemed to be assigned to Owner without any further action being required, but Owner shall not thereby assume any obligation for payments due under such subcontracts and supplier contracts for any Work provided or performed prior to such assignment.
7. Owner may withhold from any Progress Payment or Final Payment, whether or not previously approved, or may recover from Contractor, any and all costs, including attorneys' fees and administrative expenses, incurred by Owner as the result of any Event of Default or as a result of actions taken by Owner in response to any Event of Default.
8. Owner may recover any damages suffered by Owner.

6.4 Owner's Special Remedy for Delay

If the Work is not completed by Contractor, in full compliance with, and as required by or pursuant to, this Contract, within the Contract Time as such time may be extended by Change Order, then Owner may invoke its remedies under Section 6.3 of this Contract or may, in the exercise of its sole and absolute discretion, permit Contractor to complete the Work but charge to Contractor, and deduct from any Progress or Final Payments, whether or not previously approved, administrative expenses and costs for each day completion of the Work is delayed beyond the Completion Date, as well as any additional damages caused by such delay.

6.5 Terminations and Suspensions Deemed for Convenience

Any termination or suspension of Contractor's rights under this Contract for an alleged default that is ultimately held unjustified shall automatically be deemed to be a termination or suspension for the convenience of Owner under Section 1.15 of this Contract.

ARTICLE VII LEGAL RELATIONSHIPS AND REQUIREMENTS

7.1 Binding Effect

This Contract shall be binding upon Owner and Contractor and upon their respective heirs, executors, administrators, personal representatives, and permitted

successors and assigns. Every reference in this Contract to a party shall also be deemed to be a reference to the authorized officers, employees, agents, and representatives of such party.

7.2 Relationship of the Parties

Contractor shall act as an independent contractor in providing and performing the Work. Nothing in, nor done pursuant to, this Contract shall be construed (1) to create the relationship of principal and agent, partners, or joint venturers between Owner and Contractor or (2) except as provided in Paragraph 6.3(6) above, to create any relationship between Owner and any subcontractor or supplier of Contractor.

7.3 No Collusion/Prohibited Interests

Contractor hereby represents that the only persons, firms, or corporations interested in this Contract as principals are those disclosed to Owner prior to the execution of this Contract, and that this Contract is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Contractor has, in procuring this Contract, colluded with any other person, firm, or corporation, then Contractor shall be liable to Owner for all loss or damage that Owner may suffer thereby, and this Contract shall, at Owner's option, be null and void.

Contractor hereby represents and warrants that neither Contractor nor any person affiliated with Contractor or that has an economic interest in Contractor or that has or will have an interest in the Work or will participate, in any manner whatsoever, in the Work is acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism, and neither Contractor nor any person affiliated with Contractor or that has an economic interest in Contractor or that has or will have an interest in the Work or will participate, in any manner whatsoever, in the Work is, directly or indirectly, engaged in, or facilitating, the Work on behalf of any such person, group, entity or nation.

7.4 Assignment

Contractor shall not (1) assign this Contract in whole or in part, (2) assign any of Contractor's rights or obligations under this Contract, or (3) assign any payment due or to become due under this Contract without the prior express written approval of Owner, which approval may be withheld in the sole and unfettered discretion of Owner; provided, however, that Owner's prior written approval shall not be required for assignments of accounts, as defined in the Illinois Commercial Code, if to do so would violate Section 9-318 of the Illinois Commercial Code, 810 ILCS 5/9-318. Owner may assign this Contract, in whole or in part, or any or all of its rights or obligations under this Contract, without the consent of Contractor.

7.5 Confidential Information

AMENDED 9-2-14

All information supplied by Owner to Contractor for or in connection with this Contract or the Work shall be held confidential by Contractor and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Work.

7.6 No Waiver

No examination, inspection, investigation, test, measurement, review, determination, decision, certificate, or approval by Owner, nor any order by Owner for the payment of money, nor any payment for, or use, occupancy, possession, or acceptance of, the whole or any part of the Work by Owner, nor any extension of time granted by Owner, nor any delay by Owner in exercising any right under this Contract, nor any other act or omission of Owner shall constitute or be deemed to be an acceptance of any defective, damaged, flawed, unsuitable, nonconforming or incomplete Work, equipment, materials, or supplies, nor operate to waive or otherwise diminish the effect of any warranty or representation made by Contractor; or of any requirement or provision of this Contract; or of any remedy, power, or right of Owner.

7.7 No Third Party Beneficiaries

No claim as a third party beneficiary under this Contract by any person, firm, or corporation other than Contractor shall be made or be valid against Owner.

7.8 Notices

All notices required or permitted to be given under this Contract shall be in writing and shall be deemed received by the addressee thereof when delivered in person on a business day at the address set forth below or on the third business day after being deposited in any main or branch United States post office, for delivery at the address set forth below by properly addressed, postage prepaid, certified or registered mail, return receipt requested.

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

Village of Gilberts
87 Galligan Road
Gilberts, Illinois
Attention: Village Administrator

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

Phoenix & Associates
94 Railroad Street
Gilberts, Illinois
Attention: Casey Hutson

AMENDED 9-2-14

The foregoing shall not be deemed to preclude the use of other non-oral means of notification or to invalidate any notice properly given by any such other non-oral means.

By notice complying with the requirements of this Section, Owner and Contractor each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change of address shall be effective until actually received.

7.9 Governing Laws

This Contract and the rights of Owner and Contractor under this Contract shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

7.10 Changes in Laws

Unless otherwise explicitly provided in this Contract, any reference to laws shall include such laws as they may be amended or modified from time to time.

7.11 Compliance with Laws and Grants

Contractor shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Work is provided, performed, and completed in accordance with all required governmental permits, licenses or other approvals and authorizations that may be required in connection with providing, performing, and completing the Work, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Prevailing Wage Act, 820 ILCS 130/0.01 et seq. (in furtherance of which, a copy of Owner's ordinance ascertaining the prevailing rate of wages, in effect as of the date of this Contract, has been attached as **Exhibit D** to this Contract; if the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid, the revised rate shall apply to this Contract); any other prevailing wage laws; the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes requiring preference to laborers of specified classes; the Illinois Steel Products Procurement Act, 30 ILCS 565/1 et seq.; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and the Public Works Discrimination Act, 775 ILCS 10/1 et seq.; and any statutes regarding safety or the performance of the Work, including the Illinois Structural Work Act, the Illinois Underground Utility Facilities Damage Prevention Act, and the Occupational Safety and Health Act. Contractor shall also comply with all conditions of any federal, state, or local grant received by Owner or Contractor with respect to this Contract or the Work.

Contractor shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Contractor's, or its subcontractors' or suppliers', performance of, or failure to perform, the Work or any part thereof.

AMENDED 9-2-14

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

To the extent that the Prevailing Wage Act applies, it is the Contractor's obligation to pay and require every Subcontractor to pay prevailing wages as established by the Illinois Department of Labor for each craft or type of work needed to execute the contract in accordance with 820 ILCS 130/.01 et seq. The Contractor shall prominently post the current schedule of prevailing wages at the Contract site and shall notify immediately in writing all of its Subcontractors of all changes in the schedule of prevailing wages. Any increases in costs to the Contractor due to changes in the prevailing rate of wage during the terms of any contract shall be at the expense of the Contractor and not at the expense of the Owner. The change order shall be computed using the prevailing wage rates applicable at the time the change order work is scheduled to be performed. The Contractor shall be solely responsible to maintain accurate records as required by the prevailing wage statute and to obtain and furnish all such certified payroll records to the Owner as required by Statute. In lieu of certified payroll, Contractor shall submit a letter setting forth the basis upon which Contractor has concluded the Act does not apply. The Contractor shall be solely liable for paying the difference between prevailing wages and any wages actually received by laborers, workmen and/or mechanics engaged in the Work and in every way defend and indemnify the Owner against any claims arising under or related to the payment of wages in accordance with the Prevailing Wage Act.

7.12 Compliance with Patents

A. Assumption of Costs, Royalties, and Fees. Contractor shall pay or cause to be paid all costs, royalties, and fees arising from the use on, or the incorporation into, the Work, of patented equipment, materials, supplies, tools, appliances, devices, processes, or inventions.

B. Effect of Contractor Being Enjoined. Should Contractor be enjoined from furnishing or using any equipment, materials, supplies, tools, appliances, devices, processes, or inventions supplied or required to be supplied or used under this Contract, Contractor shall promptly offer substitute equipment, materials, supplies, tools, appliances, devices, processes, or inventions in lieu thereof, of equal efficiency, quality, suitability, and market value, for review by Owner. If Owner should disapprove the offered substitutes and should elect, in lieu of a substitution, to have supplied, and to retain and use, any such equipment, materials, supplies, tools, appliances, devices, processes, or inventions as may by this Contract be required to be supplied, Contractor shall pay such royalties and secure such valid licenses as may be requisite and necessary for Owner to use such equipment, materials, supplies, tools, appliances, devices, processes, or inventions without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. Should Contractor neglect or refuse to make any approved substitution promptly, or to pay such royalties and secure such licenses as may be necessary, then Owner shall have the right to make such substitution, or Owner may pay such royalties and secure such licenses and charge the cost thereof against any money due Contractor from Owner or

recover the amount thereof from Contractor and its surety or sureties notwithstanding that Final Payment may have been made.

7.13 Time

The Contract Time is of the essence of this Contract. Except where otherwise stated, references in this Contract to days shall be construed to refer to calendar days.

7.14 Severability

The provisions of this Contract shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Contract shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Contract shall be in any way affected thereby.

7.15 Entire Agreement

This Contract sets forth the entire agreement of Owner and Contractor with respect to the accomplishment of the Work and the payment of the Contract Price therefor, and there are no other understandings or agreements, oral or written, between Owner and Contractor with respect to the Work and the compensation thereof.

7.16 Amendments

No modification, addition, deletion, revision, alteration or other change to this Contract shall be effective unless and until such change is reduced to writing and executed and delivered by Owner and Contractor.

IN WITNESS WHEREOF, Owner and Contractor have caused this Contract to be executed in five original counterparts as of the day and year first written above.

Attest/Witness:

VILLAGE OF GILBERTS

By: *Delia Morales*

By: 

Title: *Village Clerk*

Title: Village President

Attest/Witness:

PHOENIX & ASSOCIATES

By: _____

By: _____

Title: _____

Title: _____

STATE OF ILLINOIS)
)
COUNTY OF Kane) SS

CONTRACTOR'S CERTIFICATION

_____, being first duly sworn on oath, deposes and states that all statements herein made are made on behalf of Contractor, that this deponent is authorized to make them, and that the statements contained herein are true and correct.

Contractor deposes, states, and certifies that Contractor is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or the amount of tax, as set forth in 65 ILCS 5/11-42.1-1; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq.; or (iii) a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001.

DATED this 2nd day of Sept., 2014.

Attest/Witness:

PHOENIX & ASSOCIATES

By: Debra Meadows

By:

Title: Village Clerk

Title: _____

Subscribed and Sworn to before me this 2nd day of Sept., 2014.

My Commission Expires: 12/23/17

Notary Public

Debra Meadows



Exhibit A

Work

1. FIELD SURVEYS - Complete a field survey to establish line and grade of the utilities and amenities pad layout and grading of play fields and overland flow paths and parking lot extension. Provide a metes and bounds description of all necessary permanent and temporary easements for construction and future maintenance of proposed improvements.
2. DESIGN - Prepare design drawings and specifications sufficient in detail to allow for installation of sanitary sewer, water main and electric utilities to the PARK AMENITIES and established line and grade for all overland flow paths, play fields and parking lot addition. In addition prepare a stormwater pollution prevention plan and Notice of Intent for submittal to the IEPA under the Villages existing NPDES Stormwater Discharge Permit.
3. CONSTRUCTION – Provide the following items of work necessary to complete the PROJECT, as shown on the plans attached as Exhibit B and as described in the proposal attached as Exhibit C, including but not limited to the following:
 - a. Earthwork cut and fill necessary to provide “Pony League” baseball and soccer/football fields
 - b. Stormwater drainage improvements and overland flow paths throughout the project.
 - c. Construction of baseball diamond infield, fencing and dugout, installation of splash park improvements and required supporting utilities, installation of playground area and concession/restroom pavilion inclusive of sanitary sewer, potable water and electrical utilities, as required.
 - d. Construction of parking lot addition base and surface and stripping.

All appropriate erosion control measures, topsoil respreads, seeding and other restoration as shown on the plans.

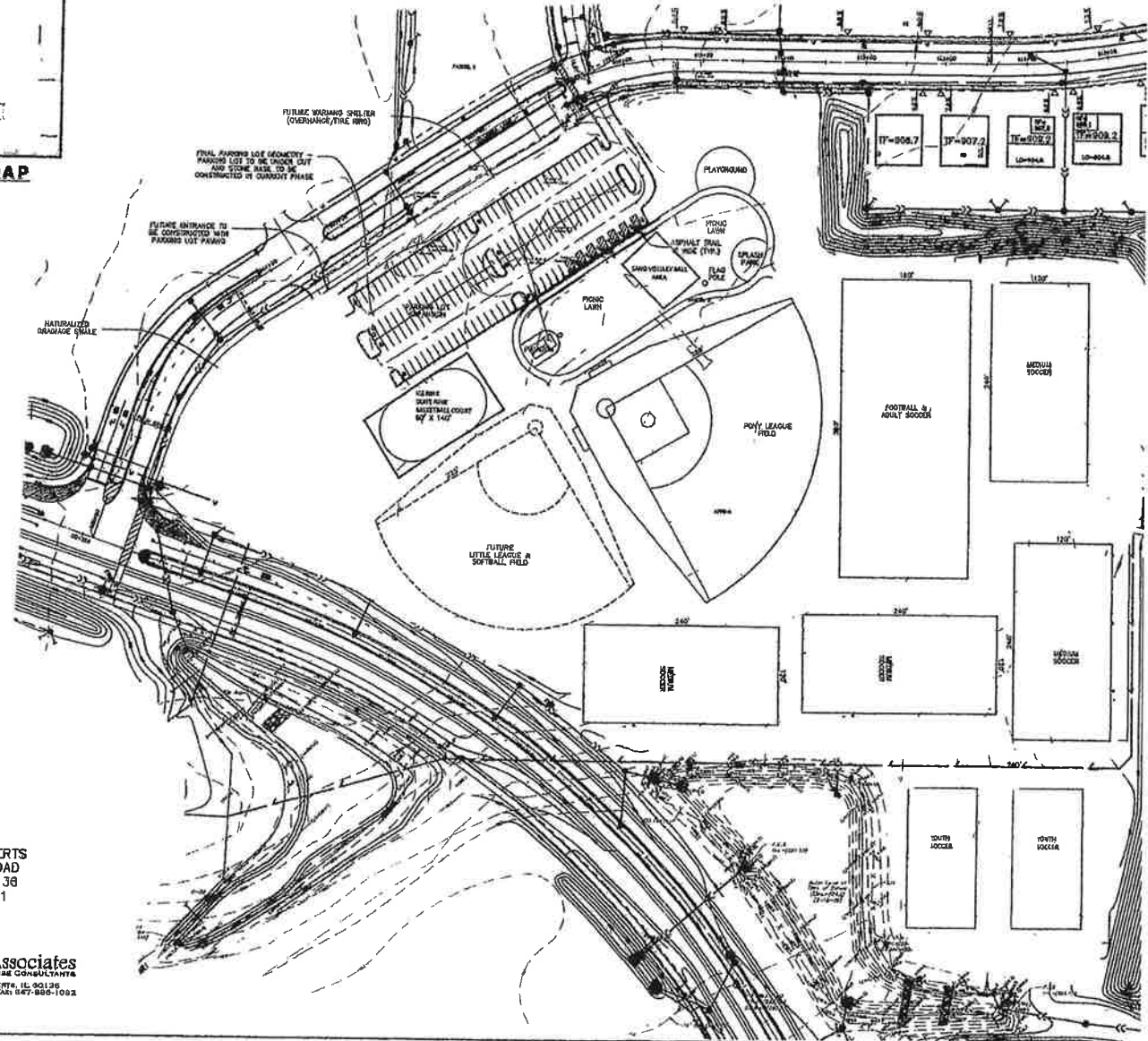
4. PROJECT CLOSEOUT AND RECORD DRAWINGS - Provide documentation of repaired and replaced drain tiles throughout course of scheduled work. Provide final record drawings of grading, utility locations and PARK AMENITIES location and details in electronic format and final waivers, product and work guarantees, and warranty/maintenance bonds.

Village of Gilberts - Town Center Park Concept Plan



LOCATION MAP

HE



PREPARED FOR:
VILLAGE OF GILBERTS
 87 GALLIGAN ROAD
 GILBERTS, IL. 60138
 847-428-2861

 **Phoenix & Associates**
 DEVELOPMENT & LAND USE CONSULTANTS
 84 RAILROAD ST., GILBERTS, IL 60136
 PHOENIX 847-355-1050 FAX 847-355-1052

**Exhibit C
Work Proposal
Amended 9-2-14**

PHOENIX BUDGET PROPOSAL							9-2-14	9-2-14	9-2-14
I	Earthwork Improvements	qty	unit	unit price	Cost	Revised Costs	Adjustment Difference	Adjustment Explanation	
1	Gilberts town center pond modification	1	LS	LS	\$ 13,500.00				
2	3000 CY import and final top dress/grading	3,000	CY	\$ 8.00	\$ 24,000.00				
3	5 acres - 2' cut = 16,000 CY @\$3.50	16,000	CY	\$ 3.50	\$ 56,000.00				
4	4 acres S/E Corner - 2' Cut and spread	12,400	CY	\$ 3.50	\$ 43,400.00				
5	Reshaping of existing pond to allow proper drainage, slopes, and future maintenance	1,500	LF	\$ 9.33	\$ 14,000.00				
	Subtotal earthwork				\$ 150,900.00	\$ 150,900.00			
II	Underground improvements								
1	HDPE 18" with basins. Includes 6" perf tiles ~150' with 7 connections		LS	LS	\$ 37,000.00				
	Subtotal underground				\$ 37,000.00	\$ 37,000.00			
III	Baseball field improvements								
1	Softball pony field complete	1	LS	\$ 100,000.00	\$ 100,000.00			Grading costs reduced by work covered by Earthwork Improvements (above)	
	Sub total baseball field				\$ 100,000.00	\$ 58,500.00	\$ (41,500.00)		
IV	Park improvements								
1	Splash Park complete - including utilities	1	LS	\$ 225,000.00	\$ 225,000.00			Increased water/sewer main costs with directional boring; added water meter, valve vault, siamese connection	
2	Playground area complete	1	LS	\$ 85,000.00	\$ 85,000.00			Concrete curbing upgrade, additional playground fixtures from resident input	
							\$ 38,185.00		
							\$ 12,000.00		

Exhibit C

Work Proposal
Amended 9-2-14

PHOENIX BUDGET PROPOSAL		qty	unit	unit price	Cost	9-2-14 Revised Costs	9-2-14 Adjustment Difference	9-2-14 Adjustment Explanation
3	Pavilion complete with concrete work and utility extension donation	1	LS	\$ 50,000.00	\$ 50,000.00		\$ 94,100.00	Increased ComEd connection, building labor (plumbing/electric/masonry) and fixture installation costs; upgrade to concrete sidewalks
Sub total Park improvements					\$ 360,000.00	\$ 504,285.00	\$ 144,285.00	
V Erosion control improvements								
1	Silt Fence w/ Maintenance	3,782	LF	\$ 2.75	\$ 10,400.00			
2	Erosion control blanket - pond slope	84,000	SF	\$ 0.25	\$ 21,000.00			
3	Additional Seeding for non field	9	AC	\$ 3,500.00	\$ 31,500.00			
4	Soils and groundwater investigation and due diligence. Recon of ~3,500 LF of existing on site tile system makeup and functionality. Review of onsite and offsite drainage, and lowering of pond water level to designed standards (~2')	1	LS	\$ 6,800.00	\$ 6,800.00			
Subtotal erosion control					\$ 69,700.00	\$ 69,700.00		
VI Design Costs								
1	Engineering design - includes site grading and park amenities footprint layout, applicable IEPA permitting, project design, closeout and record drawings by Phoenix/ESI. Also includes site design grading and storm water design oversight by B&W and Construction management/administrative by Phoenix	1	LS	\$ 45,000.00	\$ 45,000.00			
2	Construction staking	1	LS	\$ 3,000.00	\$ 3,000.00			
Sub total Design					\$ 48,000.00	\$ 48,000.00		

