

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 92-15

TO: President Rick Zirk
Village Board of Trustees

FROM: Ray Keller, Village Administrator *PK*

DATE: December 30, 2015

RE: Village Board Meeting – January 5, 2016

The following summary discusses the agenda items for the Village Board meeting scheduled for January 5, 2016:

1. CALL TO ORDER

2. ROLL CALL / ESTABLISH QUORUM

3. RECOGNITION

A. 3rd Annual Community Service Award Recipient

Village President Rick Zirk will recognize Ms. Laura Britto as this year's recipient of the Village of Gilberts Community Service Award.

4. PUBLIC COMMENT

5. CONSENT AGENDA

A. Motion to approve Minutes from the December 15, 2015 Village Board Meeting

Staff recommend approval of the minutes from the December 15 meeting. Please contact Village Clerk Debra Meadows prior to the meeting with any corrections or questions.

B. Motion to approve Bills & Salaries dated January 5, 2016

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.

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

6. ITEMS FOR APPROVAL

A. Motion to approve Ordinance 01-2016, an Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control and Chapter 4 of Title 2 “Fee Schedule”

Staff recommend approval of this ordinance reducing the number of available Class D liquor licenses (package liquor sales with no onsite consumption) from two to one. The closure of Tailgate Liquors has been the latest indicator that the community cannot support two package liquor stores at this time, leaving Mobil as the only remaining Class D license holder. Should a new package liquor business be interested in obtaining a license, the Village Board would have the opportunity to consider what impact the proposed establishment would have on the community before adding another D license. The ordinance also reduces the number of D1 (add-on license to allow a Class D establishment to host tastings) to zero, as there are no D1 licenses in use at this time. Should the need arise, the Village Board would have the discretion to amend the Village Code to reestablish this particular license class.

Please contact me or Village Clerk Debra Meadows with any questions or requests for additional information that may be needed prior to the meeting.

B. Motion to approve Resolution 01-2016, a Resolution authorizing a Temporary License Agreement and Hold Harmless Agreement between the Village of Gilberts and FOSIVA

Staff recommend approval of this resolution authorizing a Temporary License And Hold Harmless Agreement with Fosiva to grant limited access to and use of two Village owned properties, the Public Works Building at 73 Industrial Drive, and the Glacial Falls Lift Station located at 900 Glacial Falls Dr. This will allow Fosiva to begin installation components of the fiber optic network that will serve Village facilities and the Conservancy while the parties continue to negotiate the terms of the master Fiber Optic Agreement. This License Agreement will expire the earlier of (i) the parties approving and executing the Fiber Optic Agreement; (ii) termination pursuant to Section 3 of this License Agreement; or (iii) March 30, 2015.

Please contact me or Assistant Administrator Bill Beith with any questions or requests for additional information that may be needed prior to the meeting.

7. ITEMS FOR DISCUSSION

Please contact me or Village President Rick Zirk to add any topics for discussion.

8. STAFF REPORTS

Staff will provide any updates at the meeting.

9. BOARD OF TRUSTEES REPORTS

10. PRESIDENT’S REPORT

11. EXECUTIVE SESSION

Please let me know if you have any questions about current executive session topics.

12. ADJOURNMENT

**Village Board of Trustees
Meeting Agenda
Village of Gilberts
87 GALLIGAN ROAD,
GILBERTS, ILLINOIS 60136
January 5, 2016
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. RECOGNITION**
 - A. 3rd Annual Community Service Recipient
- 4. PUBLIC COMMENT**
- 5. CONSENT AGENDA**
 - A. A Motion to approve Minutes from the December 15, 2015 Village Board Meeting
 - B. A Motion to approve Bills & Salaries dated January 5, 2016
- 6. ITEMS FOR APPROVAL**
 - A. A Motion to approve Ordinance 01-2016, an Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code regarding Liquor Control and Chapter 4 of Title 2 "Fee Schedule"
 - B. A Motion to approve Resolution 01-2016, a Resolution authorizing a Temporary License Agreement and Hold Harmless Agreement between the Village of Gilberts and FOSIVA
- 7. ITEMS FOR DISCUSSION**
- 8. STAFF REPORTS**
- 9. BOARD OF TRUSTEES REPORTS**
- 10. PRESIDENT'S REPORT**
- 11. 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.
- 12. ADJOURNMENT**

Audience Participation

Anyone indicating a desire to speak during Public Comments portion of the Village Board Meeting will be acknowledged by the Village President. 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 other negative 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 Disabilities Act (ADA). For accessibility Assistance, please contact the Village Clerk at the Village Hall, telephone number is 847-428-2861”. *Assistive services will be provided upon request.*

NOT APPROVED MINUTES

Village of Gilberts
87 Galligan Road
Gilberts, IL 60136
Village Board
Meeting Minutes
December 15, 2015

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 Kojzarek, Corbett, LeClercq, Zambetti, Farrell, Hacker and President Zirk. Others present: Administrator Keller, Assistant Administrator Beith, Finance Director Blocker and Clerk Meadows. For members of the audience please see the attached sign-in sheet.

Public Hearing

Tax Levy Ordinance for the Fiscal Year beginning May 1, 2016 and ending April 30, 2017

President Zirk stated that he would entertain a motion to open the Tax Levy Public Hearing. A Motion was made by Trustee Corbett and seconded by Trustee LeClercq to open the Public Hearing for the Tax Levy Ordinance for the Fiscal Year beginning May 1, 2016 and ending April 30, 2017. Roll call: Vote: 6 ayes: Trustees Kojzarek, Corbett, LeClercq, Zambetti, Farrell and Hacker. 0-nays, 0-abstained. Motion carried.

Administrator Keller noted that the relative information with respect to the Tax Levy was included in his overview memo. President Zirk asked if anyone in attendance had any questions on the levy. The audience offered no comments or presented any questions.

A Motion was made by Trustee LeClercq and seconded by Trustee Corbett to close the Public Hearing portion of the meeting at 7:01 p.m. Roll call: Vote: 6-ayes: Trustees Corbett, LeClercq, Zambetti, Farrell, Hacker and Kojzarek. 0-nays,0-abstained. Motion carried.

Public Comment

President Zirk asked if anyone in the audience wished to address the Board Members. There were no comments or questions provided by anyone in the audience.

Consent Agenda

- A. A Motion to approve Minutes from the December 8, 2015 Special Village Board Meeting**
- B. A Motion to approve Bills & Salaries dated December 15, 2015 as follows: General Fund \$61,862.33, Permit Pass Thrus \$455.00, Performance Bonds and Escrows \$47,219.44, Water Fund \$19,696.40 and Payroll \$56,488.96**
- C. A Motion to approve Ordinance 30-2015, an Ordinance abating Taxes heretofore Levied to pay interest and principal \$27,250,000 Village of Gilberts, Kane County, Illinois Special Service Area Number Nine Special Tax Refunding Bonds, Series 2015 (Big Timber Project)**
- D. A Motion to approve Ordinance 31-2015, an Ordinance abating Taxes heretofore Levied to pay interest and principal \$11,720,000 Village of Gilberts, Kane County, Illinois Special Service Area Number Fifteen Special Tax Refunding Bonds, Series 2014 (Town Center Project)**
- E. A Motion to approve Ordinance 32-2015, an Ordinance abating Taxes heretofore Levied to pay interest and principal \$9,750,000 Village of Gilberts, Kane County, Illinois Special Service Area Number Twenty-Four Special Tax Bonds Series 2014 (the Conservancy Project)**
- F. A Motion to approve Ordinance 33-2015, an Ordinance abating the Taxes heretofore Levied for the Year 2015 to pay debt service on certain Bonds of the Village of Gilberts, Kane County Illinois**
- G. A Motion to approve Resolution 47-2015, a Resolution approving a renewal proposal by Arthur J. Gallagher Risk Management Services Inc. for property, liability, Workers Compensation and Risk Management Insurance Coverage**
- H. A Motion to approve Resolution 48-2015, a Resolution for Maintenance of Streets and Highways by Municipality under the Illinois Highway Code**

President Zirk asked the Board Members if there were any items they wished to remove from the consent agenda for separate consideration. The Board Members offered no comments. **A Motion was made by Trustee Zambetti and seconded by Trustee Farrell to approve the consent agenda items A-H as presented.** Roll call: Vote: 6-ayes: Trustees Corbett, LeClercq, Zambetti, Farrell, Hacker and Kojzarek. 0-nays, 0-abstained. Motion carried.

Items for approval

A Motion to approve Ordinance 29-2015, an Ordinance Levying Taxes for Fiscal Year beginning May 1, 2016 and ending April 30, 2017

Administrator Keller commented on a previous discussion that transpired during the December 8th Village Board meeting. The Board Members had discussed in the length the increase in the Police Pension contribution due to the updated actuarial assumptions.

He went on to discuss the fact that the Governor and the state legislature have been considering implementing a total property tax freeze for a two year period. In addition, the Governor and state legislature have been considering allowing local governments to increase tax levies to cover the growing cost of the pension obligations.

Administrator Keller noted that there is no guidance on whether a tax freeze will be adopted and if the police pension levies would be an uncapped exemption from the freeze if one was to be implemented or if a police pension exemption from the freeze would still be subject to the PTELL tax cap.

Administrator Keller reported rather than speculate on how a potential State property tax freeze might affect the Village's levy staff modified the draft ordinance to spread the projected 4.9% levy increase equally across the corporate, police protection and police pension line items. As the pension line does not cover the full amount of the required pension contribution, the Village would need to use other tax revenues to cover the difference.

President Zirk asked if any of the Board Members had any question on the Tax Levy Ordinance. The Board Members offered no questions or comments. **A Motion was made by Trustee Zambetti and seconded by Trustee LeClercq to approve Ordinance 29-2015, an Ordinance Levying Taxes for Fiscal Year beginning May 1, 2016 and ending April 30, 2017.** Roll call: Vote: 6-ayes: Trustee LeClercq, Zambetti, Farrell, Hacker, Kojzarek and Corbett. 0-nays, 0-abstained. Motion carried.

A Motion to approve Resolution 49-2015, a Resolution authorizing a professional service agreement with Current Technologies Corporation of IT Services

Administrator Keller discussed the proposed service agreement with Current Technologies. He noted that the proposal did include a modest increase of \$5.00 per hour. However, over the last two years the Village on average incurred 23 hours of billable services from Current Technologies. In addition, last time the Village went out to bid they only received two bid offers one from Current Technologies and the other from BWCSI.

President Zirk asked if the Board Members had any questions or comments with respect to Current Technologies proposal. The Board Members offered no comments. **A Motion was made by Trustee Corbett and seconded by Trustee LeClercq to approve Resolution 49-2015, a Resolution authorizing a professional service agreement with Current Technologies Corporation for IT services.** Roll call: Vote: 6-ayes: Trustees Zambetti, Farrell, Hacker, Kojzarek, Corbett and LeClercq. 0-nays, 0-abstained. Motion carried.

Items for Discussion

There were no items listed under "Items for Discussion".

Staff Reports

Administrator Keller reported that the Village had received notice from the Village of West Dundee that they will be conducting a public hearing on Monday, December 28th at 7:30 p.m. to consider a petition by the Opus Group to amend their existing annexation agreement to allow for a meat processing facility. Administrator Keller commented on the fact that he will be contacting the Village of West Dundee to gather additional information with respect to the petition.

Administrator Keller reported that the Staff's annual holiday party will be held this Friday beginning at noon.

Administrator Keller provided the Board Members with an update on the draft FY-2016 budget. He noted that the Police Department's share is 1/3 of the total budget.

President Zirk directed Staff to have Lauterbach and Amen (the Actuary for the Police Pension Board) justify their 4.75% return on investments assumption. There was some discussion on the financial burden the police pension obligation has placed on the Village. Administrator Keller reported that he had spoken with other local municipalities and they informed him that some of their Actuaries are also using the 7% return on investment assumption, and they are also using the 2000 Life Table.

Finance Director Blocker reported the Village has now received funds from the State.

Board of Trustee Reports

Trustee Hacker complimented Staff on the new energy efficient entrance sign lights. Administrator Keller reported that in Spring Staff will be installing ground cover around the signs.

President's Report

President Zirk suggested the Police Department may want to consider making the Police Station a transfer safe location. He explained that Transfer Safe Spots is a location which has video cameras and residents could use the location to complete internet sales transactions. Trustee Zambetti was not in favor of the idea.

Executive Session

President Zirk asked if the Board Members or Staff had any reasons to enter into an executive session. The Board Members and Staff offered no comments.

Village Board
Meeting Minutes
December 15, 2015
Page 5

Adjournment

There being no further public business to discuss, a Motion was made by Trustee Hacker and seconded by Trustee LeClercq to adjourn from the public meeting at 7:30 p.m. Roll call: Vote: 6-ayes by unanimous voice vote. 0-nays, 0-abstain. Motion carried.

Respectfully submitted,

Debra Meadows

VILLAGE OF GILBERTS

KANE COUNTY

STATE OF ILLINOIS

ORDINANCE NUMBER 01-2016

An Ordinance amending various provisions of Chapter 2 of Title 3 of the Village Code Regarding Liquor Control and Chapter 4 of Title 2 "Fee Schedule"

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF GILBERTS
KANE COUNTY
STATE OF ILLINOIS**

_____, 2016

Published in pamphlet form by authority of the President and Board of Trustees of the Village of Gilberts, Kane County, Illinois this ____ day of _____, 2016.

AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER 2 OF TITLE 3 OF THE VILLAGE CODE REGARDING LIQUOR CONTROL AND CHAPTER 4 OF TITLE 2 “FEE SCHEDULE”

WHEREAS, the Village is authorized by the Illinois Liquor Control Act, 235 ILCS5/1 *et seq.* to license and regulate the sale of alcoholic beverages in the Village; and

WHEREAS, the Village has established local liquor license regulations in Chapter 2 of Title 3 of the Gilberts Village Code; and

WHEREAS, the Village has determined it to be in the best interest of the Village and its residents to consider amending the Village Code to reflect the current number of liquor license establishments; and

NOW, THEREFORE, BE IT ORDAINED by the Village Board of the Village of Gilberts, Kane County, Illinois pursuant to its non-home rule powers, as follows:

Section 1: The recitals set forth above are incorporated into Section 1 as set forth herein.

Section 2: That Section 3-2-9 “Number of Licenses” of Chapter 3-2 “Liquor Control” shall be amended by adding the following underlined text and deleting the following stricken text:

Class Of License	Number Of Licenses
A	4
B	1
C	1
D	2 1
D1	20
E	1
F	1

Section 3: That Section 2-4-19 “Liquor Licenses” of Chapter 2-4 “Fee Schedule” shall be amended by deleting the following stricken text:

A. Fees Established; Waivers:

1. The fees for liquor licenses shall be as follows:

Class Of License	Fee
Class A	\$1,800 .00
Class B	1,200 .00
Class C:	
Festivals	500 .00
Reunions, weddings, anniversaries and baby and wedding showers	100 .00
Sporting events	200 .00
Other events	To be determined by the village board
Class D	\$1,200 .00
Class D1, in addition to the class D liquor license fee	100 .00
Class E	1,500 .00
Class F	1,200.00

Section 4: That each section, paragraph, sentence, clause and provision of this ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this ordinance, nor any part thereof, other than that part affected by such decision.

Section 5. That except as to the amendments heretofore mentioned, all Sections of the Village Code 2016 of the Village of Gilberts, Illinois shall remain in full force and effect.

Section 6. Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees be published in pamphlet form. On the tenth day after the date of publication, this Ordinance shall be in full force and effect

PASSED BY THE BOARD OF TRUSTEES of the Village of Gilberts, Illinois at
a regular meeting thereof held on the ____ day of _____, 2016.

	<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 Elissa Kojzarek	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED this _____ day of _____, 2016

(SEAL)

Village President Rick Zirk

ATTEST:

Village Clerk, Debra Meadows

Published: _____

VILLAGE OF GILBERTS

A RESOLUTION AUTHORIZING EXECUTION OF A TEMPORARY LICENSE AGREEMENT AND HOLD HARMLESS AGREEMENT BETWEEN THE VILLAGE OF GILBERTS AND FOSIVA

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 authorizes the Village President and Village Clerk to execute a Temporary License Agreement between the Village and FOSIVA as are necessary and convenient to effectuate the temporary license agreement as here by attached hereto and made a part hereof as Exhibit A as approved.

Section 2:

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

Passed this ____ day of _____, 2016 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 Elissa Kojzarek	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS ____ DAY OF _____, 2016

Village President, Rick Zirk

(SEAL)

ATTEST: _____
Village Clerk, Debra Meadows

TEMPORARY LICENSE AND HOLD HARMLESS AGREEMENT

THIS TEMPORARY LICENSE AGREEMENT dated as of this ____ day of _____, _____, (*“Execution Date”*) between the **VILLAGE OF GILBERTS**, an Illinois municipal corporation (*“Village”*) and **FOSIVA** (*“Licensee”*):

WHEREAS, the Village and Licensee are negotiating an agreement for the Licensee to install and operate a fiber optic network in the Village (*“Fiber Optic Agreement”*); and

WHEREAS, while the parties continue to negotiate the terms of the Fiber Optic Agreement, the Licensee has requested, and the Village has agreed to grant, limited access to and use of two Village owned properties, the Public Works Building at 73 Industrial Drive and the Glacial Falls Lift Station located at 900 Glacial Falls Dr., both in Gilberts, Illinois (collectively referred to as *“Licensed Premises”*), to allow Licensee to begin installation of certain facilities related to the fiber optic network, as described and/or depicted on **Exhibit A** (*“Facilities”*); and

NOW THEREFORE, in consideration of the recitals, mutual covenants, and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby mutually agree as follows:

SECTION 1. GRANT OF LICENSE.

The Village hereby grants to the Licensee, and the Licensee hereby accepts, a revocable limited use license (*“License”*) to access the Licensed Premises for the purpose of constructing and maintaining the Facilities in conformity with the plans attached as **Exhibit A**. The Licensee shall complete the Facilities in a lien-free, workmanlike manner pursuant to permits issued by the Village. The Licensee shall keep the Facilities and Licensed Premises at all times in the proper condition for their intended use and shall be solely responsible for any and all injuries caused by the Licensee’s failure to do so. The Village reserves the right to use the Licensed Premises in any manner that will not prevent, impede, or interfere in any way with the exercise by Licensee of the rights granted by this License Agreement. The Licensee acknowledges that this License is for the sole and exclusive benefit of the Licensee, and shall not be transferred or assigned without prior written consent of the Village, which consent may be withheld at the Village’s sole and absolute discretion.

SECTION 2. TERM.

This License Agreement will expire the earlier of (i) the parties approving and executing the Fiber Optic Agreement; (ii) termination pursuant to Section 3 of this License Agreement; or (iii) March 30, 2015. Upon termination or expiration of this License Agreement, the Licensee shall remove the Facilities and restore the Licensed Premises, at its sole cost and expense, as nearly as practicable to the condition immediately preceding the installation of the Facilities.

SECTION 3. TERMINATION.

A. Termination by the Village. Notwithstanding anything to the contrary in this License Agreement, the Village may terminate this License Agreement, in whole or in part, by providing Licensee with notice of one of the following conditions:

- (i) If the Licensee fails to comply with any of the terms, conditions, or limitations set forth in this License Agreement and does not cure such failure within 10 days of prior written notice; or
- (ii) If the Licensee violates any applicable federal, state, county, or Village law, ordinance, rule, or regulation; or
- (iii) If the Village, in its sole discretion, determines that a public need or purpose exists that requires the termination of this License Agreement or that there is a safety concern resulting from activities undertaken pursuant to this License Agreement.

B. Termination by Licensee. Upon removal of the Facilities from the Licensed Premises and restoration of the Licensed Premises, the Licensee may terminate this License Agreement by providing the Village with 30 days prior written notice.

SECTION 4. INDEMNIFICATION AND INSURANCE.

Licensee shall hold harmless, indemnify, and defend the Village, its elected and appointed officials, attorneys, employees, and representatives against any and all losses, expenses, claims, costs, causes, and damages, including without limitation litigation costs and attorneys' fees (i) for any accident, injury, or death to persons or loss or damage to property occurring on or about the Facilities and/or Licensed Premises, or any parts thereof, and due in whole or in part to any act or failure to act or any negligence or default under this License Agreement by Licensee, its tenants, contractors, representatives, invitees, licensees or employees; or (ii) on account of any failure on the part of Licensee to perform or comply with any terms or conditions of this License Agreement ("*Claims*"). The provisions of this Section shall not be limited by the amounts of any insurance provided by Licensee pursuant to this License Agreement. Claims that arise prior to the termination of this License Agreement shall survive the termination of this License Agreement.

Licensee shall obtain and maintain, at its sole expense, comprehensive general liability insurance in an amount not less than \$2,000,000 to insure against (i) personal injury, death, or property damage occurring on or in connection with the Facilities and/or Licensed Premises, (ii) Licensee's obligations under this License Agreement, and (iii) contractor liability. In addition, all of Licensee's contractors shall procure and provide evidence of insurance in the amounts and manner set forth in this Section, and as approved by the Village. The Village shall be named as an additional insured on all insurance policies and provide a certificate of insurance to evidence coverage and, at the Village's request, provide copies of all policies.

SECTION 5. ENFORCEMENT.

The parties may, in law or in equity, by suit, action, mandamus or any other proceeding, including, without limitation, specific performance, enforce or compel the performance of this License Agreement; provided that the Licensee agrees that it will not seek, and does not have the right to seek, to recover a judgment for monetary damages against the Village or any elected or appointed officials, agents, representatives, attorneys or employees on account of the negotiation, execution, or breach of any of this License Agreement. Licensee agrees to pay all reasonable costs, attorneys' fees, and expenses incurred by the Village in enforcing this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this License Agreement to be executed, effective as of the date first written above.

ATTEST:

VILLAGE OF GILBERTS

By: _____

Its: _____

ATTEST:

FOSIVA

Exhibit A

Plans

73 Industrial Drive: Upstairs document storage room will receive a single vertical 19 inch rack cabinet to be located on the far east end of the room. Installation of this rack will include fiber and electrical connections.

Glacial Falls Lift Station: Fiber network support cabinets will be located within the Glacial Falls Lift Station in the Conservancy. Preliminary drawing is attached.

