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Memorandum

Date: August 18, 2015
To: President Underwood and Members of the Board of Trustees
Village Manager David Lothspeich
From: Betsy L. Gates
Robert T. Pickrell
Re: Special Service Area Establishment Procedures

This memorandum relates to the Village Board's ongoing consideration of a new phase of capital improvements to enhance the Village's downtown ("**2015 Capital Improvement Plan**"), including the possible extension of the Village's public water system. The Board has discussed several options for financing the 2015 Capital Improvement Plan, including the establishment of one or more special services areas ("**SSA**") pursuant to 35 ILCS 200/27-5 *et seq.* ("**SSA Law**"). This memorandum discusses the procedural requirements and timeline for consideration and establishment of an SSA.

A. Overview

The following is an overview of the timeline and steps required to establish an SSA. Each step is discussed in greater detail in Section B, below.

1. Adopt proposing ordinance setting the date for a public hearing.
2. Publish notice at least once in a newspaper of general circulation within the Village a minimum of 15 days prior to the public hearing.
3. Mail notice by U.S. mail to all taxpayers within the proposed SSA a minimum of 10 days prior to the public hearing.
4. Conduct a public hearing not more than 60 days after the date the proposing ordinance was adopted.
5. 60-day objection period—If a petition is filed with the Village objecting to the SSA and signed by at least 51% of the owners of record and 51% of the electors residing in the proposed SSA, then the SSA shall not be established.
6. Enact an establishing ordinance creating the SSA after the expiration of the 60-day objection period.
7. File and record the establishing ordinance within 60 days of its approval.

B. SSA Establishment Process

1. Proposing Ordinance¹. The Village Board may adopt an ordinance proposing the creation of an SSA ("**Proposing Ordinance**"). 35 ILCS 200/27-30. An SSA can be proposed for the financing of any "special services," which are those services pertaining to the government and affairs of the Village that are provided within a contiguous area in addition to the services generally provided throughout the Village. 35 ILCS 200/27-5.

The Proposing Ordinance should set the date for a public hearing on the proposed SSA (which must be not more than 60 days after the Proposing Ordinance is adopted) and include the following additional information:

- a. Findings that the proposed SSA would provide special services for the benefit of the proposed area and that such area is contiguous as required by the SSA Law,
- b. The boundaries of the proposed SSA by legal description and street location;
- c. The permanent tax index number for each parcel within the proposed SSA;
- d. A description of the proposed special services to be provided and a statement of whether the services are for new construction, maintenance, or other purposes;
- e. The proposed amount of the tax levy for the initial year of the SSA;
- f. The maximum rate of taxes to be extended within the SSA in any year; and
- g. The maximum number of years that taxes will be levied if a maximum number of years is to be established.

35 ILCS 200/27-25, 200/27-30. If the Village intends to issue bonds secured by the SSA revenues, then the Proposing Ordinance should also set forth:

- a. A statement indicating who will be responsible for maintaining the special services after the life of the bonds (if not the Village);
- b. The maximum amount of bonds to be issued;
- c. The maximum period of time over which the bonds will be retired; and
- d. The maximum interest rate the bonds will bear.

35 ILCS 200/27-45.

2. Notice. The Village must provide notice of the public hearing ("**Notice**") by publication and mailing. The Notice must be: (a) published at least once 15 days prior to the public hearing in a newspaper of general circulation within the Village; and (b) mailed by U.S.

¹ An SSA proposal can also be initiated by the submission of an application by an owner of record within the proposed SSA. In the event of a proposal initiated by an owner, an application must be submitted to the Village President that includes: the name of the applicant, the special services desired to be provided, the proposed SSA boundaries, the estimated amount of funding required, and the stated need and local support for the proposed SSA. The Village Board may accept or reject the application. 35 ILCS 200/27-20.

mail to the person in whose name the general real estate taxes for the last preceding year were paid for each parcel in the SSA (or the person last listed on the tax roll, if the prior year's taxes were not paid) at least 10 days prior to the hearing. 35 ILCS 200/27-30.

The Notice must contain the date, time, and place of the public hearing; all of the information set forth in Section 1, above; and a statement that all interested persons, including all persons owning taxable real property located within the SSA, will be given an opportunity to be heard at the hearing and an opportunity to file objections. 35 ILCS 200/27-25.

3. Hearing. Within 60 days after the adoption of the Proposing Ordinance, the Village must conduct a public hearing on the proposed SSA, tax levy, and bond issuance (if applicable). At the public hearing, interested persons may file written objections and be heard orally. The hearing may be continued to a date certain by motion set forth in the minutes of the hearing. 35 ILCS 200/27-35, 200/27-45. At the conclusion of the public hearing, the hearing should be finally adjourned by motion set forth in the minutes.

4. Objection Period. If a petition objecting to the creation of the SSA and signed by at least 51% of the electors residing within the SSA and 51% of the owners of record of property within the SSA is filed with the Village Clerk within 60 days after the final adjournment of the public hearing, then the SSA shall not be created. Such a petition may also object specifically to the levy of taxes and/or the issuance of bonds as proposed by the Village, in which case the Village shall not levy such tax or issue such bonds, as applicable. 35 ILCS 200/27-55. In the event a proper and successful objection petition is filed, the Village shall not re-propose the same SSA as to any of the objectors for at least two years. *Id.*

5. Establishing Ordinance. After the 60-day objection period concludes, if no objection petition meeting the requirements described above is filed, then the Village may enact an ordinance establishing the SSA ("**Establishing Ordinance**"). The Establishing Ordinance must include a legal description of the area, the permanent tax index numbers of all parcels in the SSA, an accurate map of the SSA, a copy of the public hearing notice, and a description of the special services to be provided. 35 ILCS 200/27-40. The Establishing Ordinance should also set forth the same information outlined in Section 1, above, with respect to taxes and bonds, as well as findings that the Village followed the required proposal, notice, and hearing procedures; no proper and successful objection petition was filed; and the SSA meets the requirements of the SSA Law.

6. Recordation and Filing. The Establishing Ordinance must be recorded with the County Recorder of Deeds within 60 days after its adoption (*id.*) and filed with the county clerk (35 ILCS 200/27-75). In addition, the Village must file: (a) a certified copy of each ordinance levying taxes in the SSA on or before the last Tuesday of December in each year; and (b) a certified copy of any ordinance authorizing the issuance of bonds and providing for a property tax levy in the SSA by December 31 of the year of the first levy. *Id.*