
THE VILLAGE OF TINLEY PARK

Cook County, Illinois

Will County, Illinois

RESOLUTION

NO. 2020-R-095

**A RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN
THE VILLAGE OF TINLEY PARK AND LIBERTY MUTUAL INSURANCE
COMPANY REGARDING ISSUES RELATED TO THE CONSTRUCTION
OF THE 80TH AVENUE TRAIN STATION**

**JACOB C. VANDENBERG, PRESIDENT
KRISTIN A. THIRION, VILLAGE CLERK**

**CYNTHIA A. BERG
WILLIAM P. BRADY
WILLIAM A. BRENNAN
DIANE M. GALANTE
MICHAEL W. GLOTZ
MICHAEL G. MUELLER
Board of Trustees**

Published in pamphlet form by authority of the President and Board of Trustees of the Village of Tinley Park
Peterson, Johnson, & Murray Chicago, LLC, Village Attorneys
200 W. Adams, Suite 2125, Chicago, IL 60606

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COMPANY REGARDING ISSUES RELATED TO THE CONSTRUCTION
OF THE 80TH AVENUE TRAIN STATION**

WHEREAS, Section 6(a) of Article VII of the 1970 Constitution of the State of Illinois provides that any municipality which has a population of more than 25,000 is a home rule unit, and the Village of Tinley Park, Cook and Will Counties, Illinois, with a population in excess of 25,000 is, therefore, a home rule unit and, pursuant to the provisions of said Section 6(a) of Article VII, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, the President and Board of Trustees of the Village of Tinley Park believe and hereby declare that it is in the best interest of the Village and its residents in order to avoid uncertainties of litigation and without admitting any liability to authorize the Village President and/or Village Manager to execute the Settlement Agreement, attached hereto as **Exhibit 1**; and

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS, STATE AS FOLLOWS:

SECTION 1: The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION 2: The President and Board of Trustees hereby authorize the Village President and/or Village Manager to execute the Settlement Agreement, attached hereto as **Exhibit 1**, subject to review as to form by the Village Attorney.

SECTION 3: Any policy, resolution, or ordinance of the Village that conflicts with the provisions of this Resolution shall be and is hereby repealed to the extent of such conflict.

SECTION 4: That the Village Clerk is hereby ordered and directed to publish this Resolution in pamphlet form, and this Resolution shall be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED THIS 29TH day of September, 2020.

AYES: Berg, Brady, Brennan, Glotz, Mueller

NAYS: None

ABSENT: Galante

APPROVED THIS 29th day of September, 2020.

ATTEST:


VILLAGE CLERK


VILLAGE PRESIDENT PRO-TEM

STATE OF ILLINOIS)
COUNTY OF COOK) SS
COUNTY OF WILL)

CERTIFICATE

I, KRISTIN A. THIRION, Village Clerk of the Village of Tinley Park, Counties of Cook and Will and State of Illinois, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2020-R-095, **“A RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF TINLEY PARK AND LIBERTY MUTUAL INSURANCE COMPANY REGARDING ISSUES RELATED TO THE CONSTRUCTION OF THE 80TH AVENUE TRAIN STATION,”** which was adopted by the President and Board of Trustees of the Village of Tinley Park on September 29, 2020.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Tinley Park this 29th day of September, 2020.



VILLAGE CLERK

EXHIBIT 1

SETTLEMENT AGREEMENT BETWEEN THE VILLAGE OF TINLEY PARK AND LIBERTY MUTUAL INSURANCE COMPANY REGARDING ISSUES RELATED TO THE CONSTRUCTION OF THE 80TH AVENUE TRAIN STATION

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is entered into by and between Liberty Mutual Insurance Company f/k/a Developers Surety and Indemnity Company (referred to herein as "Developers") and the Village of Tinley Park ("Tinley Park"). Developers and Tinley Park may be collectively referred to as "Parties."

RECITALS

WHEREAS, on or about November 15, 2010, Tinley Park entered into a contract with ZCorp Services Company ("ZCorp"), for the construction of the public project known as Metra-Tinley Park 80th Avenue Station (the "Project");

WHEREAS, on or about November 15, 2010, Developers issued a Performance Bond and a Payment Bond, bond number 771386P, on behalf of its principal, ZCorp, and for the benefit of the owner and obligee, Tinley Park (the "Bonds");

WHEREAS, the Project was substantially completed by November 21, 2012 however unforeseen circumstances substantially increased ZCorp's cost of completion and the balance remaining to be paid to ZCorp for the Project was significantly less than the cost to complete. Disputes arose over work in place and defective construction;

WHEREAS, Developers received a claim on the Bonds from Tinley Park relating to ZCorp's work on the Project (the "Bond Claim"); and

WHEREAS, the Parties, wishing to avoid the uncertainty and expense of litigation have decided to enter into this Agreement to fully and finally resolve the specified issues addressed herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the Parties, the Parties agree as follows:

1. The Recitals are made part of and incorporated into this Agreement.

2. **Settlement Payments**: Developers shall pay to Tinley Park the sum of one hundred and seventy-five thousand dollars (\$175,000.00) in full and final settlement for this matter (the "Settlement Payment"). The Settlement Payment shall be made within thirty (30) days of execution of the Agreement, and shall be made payable by check to the Village of Tinley Park, sent to Tinley Park's attorney at the following address:

Thomas J. Condon, Jr.
Peterson, Johnson & Murray Chicago, LLC
200 West Adams St., Suite 2125
Chicago, IL 60606

3. **Release by Tinley Park:** In consideration for the promises set forth in this Agreement, Tinley Park, for itself, and on behalf of, but not limited to, its former, present, and future mayor, trustees, clerk, council member, principals, agents, employees, executives, employees and all constituents, predecessors, successors, assigns, representatives and attorneys hereby release, acquit and forever discharge Developers and, but not limited to, its respective officers, directors, shareholders, employees, parent companies, sibling companies, affiliated companies, reinsurers, successors, assigns, agents, consultants, heirs, beneficiaries and attorneys of and from any and all claims, rights, demands and/or causes of action of any kind or nature that Tinley Park has raised or could have raised relating in any way to the Bonds, the Bond Claim, and/or ZCorp's work on the Project.

4. **Notices.** Any notices required to be given by the terms of this Agreement shall be made *via* email and certified mail, return receipt requested, postage prepaid to:

To Developers:

Michael J. Weber
Dinsmore & Shohl LLP
222 W. Adams St., Suite 3400
Chicago, IL 60606
(312) 775-1742
michael.weber@dinsmore.com

To Tinley Park:

Thomas J. Condon, Jr.
Peterson, Johnson & Murray Chicago, LLC
200 West Adams St., Suite 2125
Chicago, IL 60606
(312) 724-8040
tcondon@pjmchicago.com

5. **General Provisions:**

- (a) This Agreement contains contractual obligations.
- (b) This Agreement may be executed in counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.
- (c) Facsimile and electronic signatures may be treated as originals for all purposes.
- (d) This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.
- (e) If any provision or term of this Agreement is deemed to be illegal or unenforceable in any respect, such provision or term shall not affect any other provision or term hereof, and this Agreement shall be construed as if the provision or term had never been contained herein.

- (f) The Parties agree to cooperate fully to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the basic terms, conditions, and intent of this Agreement.
- (g) The Parties agree to bear their own attorneys' fees and costs incurred in all matters that led to the entry of this Agreement.
- (h) This Agreement shall not in any way be amended or modified without the written consent of both Parties.
- (i) The Parties acknowledge that they are and have been represented by counsel in connection with the negotiation of this Agreement, that the provisions of this Agreement and the legal effect thereof have been fully explained to them, and that they have entered into this Agreement freely and voluntarily and without coercion or undue influence.
- (j) Each of the undersigned certifies that he/she is an officer and/or designated authorized agent of the respective Party as indicated at the respective signature lines, and is fully authorized to execute this Settlement Agreement on behalf of said Party and to bind said Party hereto.

6. **Final Resolution.** Except as set forth in this Agreement, the Parties, covenant and agree that the terms and conditions contained in this Agreement constitute the full, complete and final resolution of any and all claims and disputes among the Parties, both known and unknown.

7. **No Admission of Wrongdoing.** This Agreement shall not be construed as an admission of fault or liability on the part of any of the Parties. It is understood and agreed that the terms of this Agreement have been made solely to accomplish an expeditious resolution of specific issues and for no other purpose.

8. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties solely with respect to specific issues set forth herein and fully supersedes any and all prior agreements or understandings between the Parties hereto pertaining the specific issues herein.

9. **Binding Nature of Agreement.** The terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by, the Parties hereto, and their respective successors, administrators, executors, beneficiaries, and/or assigns.

10. **No Third-Party Rights.** Nothing in this Agreement is intended or shall be interpreted to confer any rights, privileges or rights of action of any kind upon any person or entity not a party to this Agreement, or to effectuate a release by the Parties of any claims or causes of action that any Party has or may have against any person or entity not a Party to this Agreement.

11. **Modification.** This Agreement may not be altered, amended, changed, terminated, or modified in any material respect without the express, written consent of all Parties hereto. No waiver by any Party hereto of any breach or default hereunder shall be deemed a waiver of any other or subsequent breach or default.

IN WITNESS HEREOF, the Parties hereto have caused this Agreement to be signed as of the day and year first above written.

**LIBERTY MUTUAL INSURANCE COMPANY f/k/a
DEVELOPERS SURETY AND INDEMNITY COMPANY**

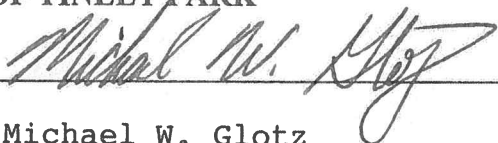
Signature: 

Printed Name: Sonia Linnaus

Title: Surety Claims Counsel

Date: October 27, 2020

THE VILLAGE OF TINLEY PARK

Signature: 

Printed Name: Michael W. Glotz

Title: Village President Pro-Tem

Date: September 29, 2020

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**LIBERTY MUTUAL INSURANCE COMPANY f/k/a
DEVELOPERS SURETY AND INDEMNITY COMPANY**

Signature: _____

Printed Name: _____

Title: _____

Date: _____

THE VILLAGE OF TINLEY PARK

Signature: Michael W. Glotz

Printed Name: Michael W. Glotz

Title: Village President Pro-Tem

Date: September 29, 2020