

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL  
CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

CITY OF SUNRISE,

Plaintiff,

Case No.: CACE-24-017614

v.

WEST CONSTRUCTION, INC.  
and PHILADELPHIA INDEMNITY  
INSURANCE COMPANY,

Defendants.

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IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL  
CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

CITY OF SUNRISE,

Plaintiff,

Case No.: CACE-24-017627

v.

WEST CONSTRUCTION, INC.  
and PHILADELPHIA INDEMNITY  
INSURANCE COMPANY,

Defendants.

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IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL  
CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

CITY OF SUNRISE,

Plaintiff,

Case No.: CACE-24-017669

v.

WEST CONSTRUCTION, INC.  
and PHILADELPHIA INDEMNITY  
INSURANCE COMPANY,

Defendants.

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## **SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made by and between City of Sunrise, on the one hand, and West Construction, Inc. and Philadelphia Indemnity Insurance Company, on the other hand. City of Sunrise, West Construction, Inc. and Philadelphia Indemnity Insurance Company are collectively referred to herein as the “Parties.” The effective date of this Agreement shall be the date on which the last signature is affixed below (“Effective Date”).

### **RECITALS**

**WHEREAS**, the Parties wish to fully resolve all disputes between them relating to the above-captioned three Lawsuits and the Pine Island Athletic Complex Project (which was not a separate lawsuit) (hereinafter collectively referred to as the “Three Lawsuits”), including the three Complaints and the associated Answers and Affirmative Defenses and Avoidances and Counterclaims regarding the following City of Sunrise Projects and Contracts (collectively the “Projects and Contracts”): a) the Project and Contract by City of Sunrise with West Construction, Inc. for the construction of the Project located in the City of Sunrise, Florida known as Veteran’s Memorial Park; b) the Project and Contract by City of Sunrise with West Construction, Inc. for the construction of the Project located in the City of Sunrise, Florida known as Welleby Park Expansion Project; c) the Project and Contract by City of Sunrise with West Construction, Inc. for the construction of the Project located in the City of Sunrise, Florida known as Senior Center Renovation and Addition; and (d) the Project and Contract by the City of Sunrise with West Construction, Inc. for the Project located in the City of Sunrise, Florida known as the Pine Island Athletic Complex.

**NOW, THEREFORE**, in consideration of the mutual benefits to be gained by this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and accepted, IT IS HEREBY AGREED as follows:

1. **Recitals**. The above recitals are true and correct and incorporated herein.
2. **Settlement Payment**. As consideration for this Agreement, and to fully resolve all claims between the City of Sunrise, West Construction, Inc., and Philadelphia Indemnity Insurance Company in the above-referenced Three Lawsuits and the Projects and Contracts (including the Pine Island Athletic Complex Project), West Construction, Inc. shall pay the City of Sunrise the total amount of Two Million, Seven Hundred and Sixty Thousand Dollars (\$2,760,000.00), hereinafter referred to as the “Discounted Settlement Sum”, by delivery by overnight mail of bank checks payable to the City of Sunrise and timely received by the City of Sunrise at the offices of its City Manager, 10770 West Oakland Park Boulevard, Sunrise, Florida 33351 as follows:
  - a. Nine Hundred and Sixty Thousand Dollars (\$960,000.00) to be paid by West Construction, Inc. to the City of Sunrise no later than three (3) business days after the Effective Date of this Agreement; and
  - b. Eighteen (18) monthly payments to be paid by West Construction, Inc. to the City of Sunrise no later than the first day of each month (starting June 1, 2026) of One Hundred Thousand Dollars (\$100,000.00).
  - c. Should West Construction, Inc. fail to timely delivery any of the payments required by this Agreement as referenced above, then the City of Sunrise shall provide West Construction, Inc. with written notice of its default by sending an e-mail notice of the default to West Construction, Inc.’s attorneys Bruce Loren, [bloren@lorenkeanlaw.com](mailto:bloren@lorenkeanlaw.com) and Kyle Ohlenschlaeger, [kohlenschlaeger@lorenkeanlaw.com](mailto:kohlenschlaeger@lorenkeanlaw.com), which shall provide West Construction, Inc.

with the right to cure its default, which must be cured within twenty (20) consecutive days of the date of service of the notice of default. Should West Construction, Inc. fail to timely cure the default, the City of Sunrise shall be entitled to the immediate entry of a Final Judgment in Broward County Circuit Court Case No. CACE-24-017614 against West Construction, Inc. for the full undiscounted amount of Three Million, Two Hundred and Sixty Thousand Dollars (\$3,260,000.00), hereinafter referred to as the “Undiscounted Settlement Sum”<sup>1</sup>, less payments made, together with pre-judgment interest at the statutory interest rate for the unpaid Undiscounted Settlement Sum from the date of the failure to timely make payment, and attorney fees incurred in the enforcement of this Agreement. West Construction, Inc. knowingly and voluntarily waives any right to notice, hearing, trial, or further adjudication prior to the entry of such Final Judgment and agrees that such Final Judgment may be entered without notice or hearing upon affidavit of default.

3. Philadelphia Indemnity Insurance Company hereby promises and agrees that if West Construction, Inc. fails to cure any default as prescribed in Paragraph 2 above, Philadelphia Indemnity Insurance Company shall be liable for the amount of the Final Judgment referenced in Paragraph 2 above, and waives any defenses related to same except for payment. The City of Sunrise shall provide Philadelphia Indemnity Insurance Company with written notice of West Construction, Inc.’s default simultaneously with the notice of default provided to West Construction, Inc. referenced in Paragraph 2 above by sending an e-mail notice of the default to Philadelphia Indemnity Insurance Company’s attorney Ty G. Thompson,

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<sup>1</sup> The Undiscounted Settlement Sum is not a penalty but more represents the actual total damages sought by the City in the Three Lawsuits

tthompson@pdtlegal.com, which shall provide Philadelphia Indemnity Insurance Company the right to cure West Construction, Inc.'s default if the cure is performed within the twenty (20) day consecutive cure period by delivery of the required payment by bank check payable to the City of Sunrise pursuant to the instructions in Paragraph 2 above.

4. Upon receipt and clearance of the initial payment of Settlement Sum of Nine Hundred and Sixty Thousand Dollars (\$960,000.00) as required above, City of Sunrise, West Construction, Inc. and Philadelphia Indemnity Insurance Company agree to file a Joint Notice of Dismissal with Prejudice of the claims between them only in each of the Three Lawsuits, with the parties reserving their right to seek enforcement in the Lawsuits of the terms of this Agreement as well as the City of Sunrise's right to enforce payment of the remaining Settlement Sum and other provisions of this Agreement as necessary. The Circuit Court shall retain jurisdiction to enforce the terms of this Agreement. These dismissals shall have no effect on other claims pending between other parties to the Three Lawsuits.

5. West Construction, Inc. shall indemnify, defend and hold harmless the City of Sunrise and its officers and employees, from any and all liabilities, damages, losses, claims, costs, and suits of any kind initiated by any and all third party defendants in West Construction, Inc.'s Three Lawsuits in the event that West Construction, Inc. pursues and/or continues to maintain any legal action against third parties and the third parties commence a legal proceeding against the City of Sunrise and/or its officers and employees arising out of and in connection with West Construction, Inc.'s pursuit of the referenced Three Lawsuits.

6. West Construction, Inc. and its affiliates and all entities of which Matthew West has an ownership interest have voluntarily chosen not to perform work in the future for the City of Sunrise. As such, the City of Sunrise may treat any bid or proposal from West Construction, Inc.

and its affiliates and all entities of which Matthew West has an ownership interest to perform work in the future for the City of Sunrise as null and void.

7. The City of Sunrise and West Construction, Inc. each have claims between them, and they each dispute the claims of the other, but the City of Sunrise and West Construction, Inc. agree to settle the Three Lawsuits and the above referenced Projects and Contracts (including the Pine Island Athletic Complex Project) because of the cost of litigation.

8. With the exception of the right of the parties to enforce the terms of this Agreement, the Parties hereby agree and covenant, on behalf of themselves and their present and former officers, directors, affiliates, parent companies, subsidiaries, related companies, shareholders, owners, members, managers, partners, employees, agents, representatives, attorneys, insurers, contractors, successors, predecessors, and assigns (collectively, the “Releasers”), to remise, release and forever discharge, and covenant not to sue each other and, as applicable, each of their respective present and former officers, directors, affiliates, parent companies, subsidiaries, related companies, shareholders, owners, members, managers, partners, employees, agents, representatives, attorneys, insurers, contractors, successors, predecessors, and assigns, and all other persons and/or entities acting on their behalf to the extent such claims are derivative of or arise solely from the matters released herein, from and in respect to any and all suits, debts, claims (whether asserted or unasserted), counterclaims, complaints, demands, losses, liabilities, subrogation, indemnifications, damages, including, but not limited to, compensatory damages, consequential damages, incidental damages, punitive damages, attorneys’ fees and costs, allegations, proceedings, causes of action and requests for relief and any other potential claims, sums of money, accounts, liens, specialties, covenants, contracts, controversies, rights and liabilities, of whatever kind or nature, whether based on any foreign, federal, state or local law, the common law, equity, or other right of action, direct, indirect, derivative or representative in nature,

or wrong doings of any kind or character whatsoever, whether the facts on which the same may be based are now known or unknown, latent or patent, that arise from or in any way relate to the claims and allegations raised in the Three Lawsuits and/or the above-referenced Projects and Contracts (including the Pine Island Athletic Complex Project). Notwithstanding anything contained herein to the contrary, nothing herein is intended to, nor shall it modify, alter, in any way amend, or supersede Philadelphia Indemnity Insurance Company's rights under any indemnity agreement. Philadelphia Indemnity Insurance Company does not release, relinquish or waive any claim, right or cause of action it has or may have against West Construction, Inc. or any other person, firm, or entity related to any indemnity agreement. Nothing herein shall be construed as releasing claims that cannot be released as a matter of Florida law.

9. In addition, the City of Sunrise agrees and covenants to remise, release and forever discharge, and covenant not to sue any subcontractor, suppliers or consultants, architects, engineers and each of their respective present and former officers, directors, affiliates, parent companies, subsidiaries, related companies, shareholders, owners, members, managers, partners, employees, agents, representatives, attorneys, insurers, contractors, successors, predecessors, and assigns from and in respect to any and all suits, debts, claims (whether asserted or unasserted), counterclaims, complaints, demands, losses, liabilities, subrogation, indemnifications, damages, including, but not limited to, compensatory damages, consequential damages, incidental damages, punitive damages, attorneys' fees and costs, allegations, proceedings, causes of action and requests for relief and any other potential claims, sums of money, accounts, liens, specialties, covenants, contracts, controversies, rights and liabilities, of whatever kind or nature, whether based on any foreign, federal, state or local law, the common law, equity, or other right of action, direct, indirect, derivative or representative in nature, that arise from or in any way relate to the work in the Three

Lawsuits and the above-referenced Projects and Contracts (including the Pine Island Athletic Complex Project).

10. Notwithstanding any other provision of this Agreement, West Construction, Inc. and Philadelphia Indemnity Insurance Company agree that the release provisions of this Agreement do not include or in any way modify or limit the General Indemnity Agreement including any and all amendments thereto, Collateral Receipt and Agreement, and/or any mortgages (collectively the “Surety Agreements” executed from time to time by West Construction, Inc. and others in favor of Philadelphia Indemnity Insurance Company. West Construction, Inc. and Philadelphia Indemnity Insurance Company agree that, to the extent legally enforceable, the Surety Agreements shall remain in full force and effect after the complete execution of this Agreement and shall not merge into or otherwise become included within or limited by this Agreement. West Construction, Inc. acknowledges and agrees that Philadelphia Indemnity Insurance Company has reserved all rights, remedies and defenses available to it pursuant to the Surety Agreements and applicable law governing the same.

11. Philadelphia Indemnity Insurance Company enters into this Agreement solely in its capacities as sureties on their respective Bonds, and, as to Philadelphia Indemnity Insurance Company, this Agreement does not apply to any other claims that Philadelphia Indemnity Insurance Company may possess or defend on any other bonds or policies of insurance.

12. This Agreement does not modify or expand the Philadelphia Indemnity Insurance Company’s obligations under the Bonds except to the extent expressly set forth herein.

13. Each Party shall bear its own attorneys’ fees and costs incurred in connection with the Lawsuit and execution of this Agreement except as provided herein. In the event any party must take action to enforce this Agreement, the prevailing party shall be entitled to attorneys’ fees and costs incurred.

14. The Parties declare, represent and warrant that they have the legal right to sign this Agreement and that the individuals signing this Agreement on behalf of each Party has the authority to do so. The Parties and their counsel have participated jointly and at arms' length in the negotiation and drafting of this Agreement and for all purposes this Agreement shall be deemed to have been drafted jointly by the Parties and their counsel. In the event of an ambiguity or question of intent, this Agreement shall be construed as if drafted jointly by the Parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party hereto by virtue of the authorship of any of the provisions of this Agreement. Each Party has knowledge of, has read, and fully understands and agrees to the terms set forth in this Agreement.

15. This Agreement constitutes the complete, final and exclusive embodiment of the entire agreement between the Parties with regard to the subject matter hereof. However, the Parties understand and acknowledge that the City Commission for the City of Sunrise must first approve this Agreement for it to become effective. This Agreement is entered into without reliance on any statements, promises, warranties or representations, written or oral, other than those expressly contained herein, and it supersedes any other statements, promises, warranties or representations.

16. This Agreement may not be varied, altered, amended, or modified, and its provisions may not be waived, except by written agreement signed by all of the Parties, which specifically states it is amending the Agreement or waiving a requirement thereof.

17. The Parties agree that this Agreement may be executed by the Parties in counterparts and with an electronic signature and exchanged by electronic means, including facsimile, PDF, DocuSign, or other electronic means, with the same effect as if all Parties had signed the same instrument and will be treated as original signatures under this Agreement and each part shall be effective as against the party who signed it.

CITY OF SUNRISE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

WEST CONSTRUCTION, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

PHILADELPHIA INDEMNITY INSURANCE  
COMPANY

By:  \_\_\_\_\_

Name: Shauna Szczechowicz

Its: Assistant Vice President - Surety Claims

Date: 04/01/2026

CITY OF SUNRISE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

WEST CONSTRUCTION, INC.

By:  \_\_\_\_\_

Name: Matthew West

Its: President

Date: 3/1/24

PHILADELPHIA INDEMNITY INSURANCE  
COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_