
THE VILLAGE OF COAL CITY
GRUNDY & WILL COUNTIES, ILLINOIS

RESOLUTION
NUMBER 18-03

**A RESOLUTION AUTHORIZING ENTRY INTO AN AGREEMENT REGARDING
CERTAIN UNCOMPLETED DEVELOPMENT IMPROVEMENTS, INCLUDING BIKE
PATH AND SIGNALIZED INTERSECTION AT RICHARDS STREET AND ILLINOIS
STATE ROUTE 113**

TERRY HALLIDAY, Village President
PAMELA M. NOFFSINGER, Village Clerk

SARAH BEACH
ROSS BRADLEY
TIMOTHY BRADLEY
DANIEL GREGGAIN
NEAL NELSON
JUSTIN WREN
Village Trustees

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Coal City
on January 24, 2018

RESOLUTION NO. 18-03

A RESOLUTION AUTHORIZING ENTRY INTO AN AGREEMENT REGARDING CERTAIN UNCOMPLETED DEVELOPMENT IMPROVEMENTS, INCLUDING BIKE PATH AND SIGNALIZED INTERSECTION AT RICHARDS STREET AND ILLINOIS STATE ROUTE 113

WHEREAS, the Village of Coal City ("Village") is an Illinois non-home rule municipal corporation, organized and operating pursuant to the Constitution and laws of the State of Illinois; and

WHEREAS, on August 21, 2012, the Village, Gendell Partners Coal City, LLC ("Gendell") and Scaggs Development Corp. ("Scaggs") entered into a "Development Agreement," [the "Agreement"] pertaining to the development of certain property owned by Gendell and to improvements to the intersection of Richards Street and Illinois State Route 113 (the "Richards Intersection") and the construction of a bicycle path; and

WHEREAS, a dispute has arisen between Gendell, Scaggs and the Village concerning the performance of certain alleged obligations under the Agreement; and

WHEREAS, the Village is desirous of resolving any disputes or uncertainties regarding this matter and wishes to avoid the expenses and uncertainties associated with litigation; and

WHEREAS, the Board of Trustees of the Village has reviewed and approved the terms of the Settlement Agreement and General Release attached hereto as Exhibit 1 and by this reference incorporated as a part hereof as though fully set forth herein (the "Settlement Agreement") and find it to be in the best interest of the Village to authorize entry into the Settlement Agreement in accordance with the terms set forth therein.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Coal City, Counties of Will and Grundy, Illinois, as follows:

SECTION 1. RECITALS. That the foregoing recitals shall be and are hereby incorporated into and made a part of this Resolution as if fully set forth in this Section 1.

SECTION 2. ENACTMENT.

The Corporate Authorities shall and do hereby authorize, approve and direct the Village President to execute and deliver the Settlement Agreement and the Village Clerk to affix the Village seal thereto and to attest the executed Settlement Agreement following the Village President's signature as may be required. The Village Administrator and Attorney, and such other agents as may be reasonably necessary to carry out the intent of the Agreement, are hereby authorized and directed to take such other and further action as may be reasonably necessary to carry out and give effect to the purpose and intent of this Resolution. All acts and doings of the officials of the Village, past, present and future which are in conformity with the purpose and intent of this Resolution are hereby, in all respects, ratified, approved, authorized and confirmed.

SECTION 3. RESOLUTION OF CONFLICTS. All enactments in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. SAVING CLAUSE. If any section, paragraph, clause, or provision of this Resolution shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Resolution, which are hereby declared to be separable.

SECTION 5. EFFECTIVENESS. This Resolution shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SO RESOLVED this 24 day of January, 2018, at Coal City,

Grundy and Will Counties, Illinois.

AYES: 4

NAYS: 0

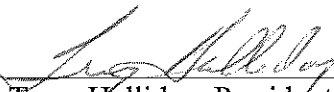
ABSENT: 2

ABSTAIN: 0

PRESENT:

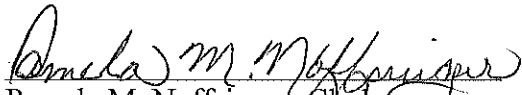
APPROVED this 24 day of January, 2018.

VILLAGE OF COAL CITY



Terry Halliday, President

Attest:



Pamela M. Noffsinger, Clerk

EXHIBIT 1

SETTLEMENT AGREEMENT AND GENERAL RELEASE

Appended on following page(s)

4849-0857-6090, v. 1

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and General Release ("Agreement") is hereby entered into by and between Gendell Partners Coal City, LLC, an Illinois limited liability company on its own behalf and on behalf of its officers, directors, shareholders, employees, agents, attorneys, parent company(ies), predecessors, insurers, related entities, successors and assigns, and all other persons and entities with whom any of the foregoing have been or are now affiliated with and each of them (collectively, "GPCC") on the one hand, and the Village of Diamond, an Illinois Municipal Corporation of Will and Grundy Counties, on its own behalf and on behalf of its officers, officials, employees, volunteers, agents, attorneys, and successors (collectively, "Diamond"), and the Village of Coal City, an Illinois Municipal Corporation of Will and Grundy Counties, on its own behalf and on behalf of its officers, officials, employees, volunteers, agents, attorneys, and successors (collectively, "Coal City"), on the other. Scaggs Development Corp., an Illinois corporation ("Scaggs"), solely for purposes of the obligations of Paragraphs 1, 3 and 5-20 is joining in this Agreement (sometimes GPCC, Diamond, Coal City and Scaggs are collectively referred to as the "Parties").

RECITALS

WHEREAS, GPCC owns the real property legally described on Exhibit A attached hereto (the "GPCC Property");

WHEREAS, a portion of the GPCC Property is located within the corporate limits of Diamond and a portion of the GPCC Property is located within the corporate limits of Coal City;

WHEREAS, on May 11, 2008, Diamond, Scaggs and GPCC entered into the "Development Agreement (Berta Road)", recorded with the Grundy County Recorder on May 30, 2008 as Document No. 490132, which, among other matters, related to the development of the GPCC Property and to certain improvements to the intersection of Berta Road and Illinois State Route 113 (the "Berta Intersection") and Richards Street and Illinois State Route 113 (the "Richards Intersection"), which agreement was thereafter twice amended (collectively, with all amendments, the "Diamond Agreement");

WHEREAS, previously, on April 2, 2008, an Irrevocable Letter of Credit was issued in favor of Diamond, and subsequently modified, to secure the completion and installation of public improvements required under the Diamond Agreement (the "LOC");

WHEREAS, on July 12, 2012, pursuant to Section 6 of the Diamond Agreement, Diamond, Scaggs and Gendell Partners entered into the "Village of Diamond Berta Road Recapture Agreement" (the "Recapture Agreement"), recorded with the Grundy County Recorder on November 5, 2012 as Document No. 533341, which entitled Scaggs and GPCC to future reimbursements for certain costs that it incurred with respect to the improvements made pursuant to the Diamond Agreement;

WHEREAS, on August 21, 2012, Coal City, Scaggs and GPCC entered into the "Development Agreement," which, inter alia, related to the development of the GPCC Property

and re-stated obligations set forth in the Diamond Agreement relating to the Richards Intersection (the "Coal City Agreement");

WHEREAS a dispute has arisen between GPCC, Diamond and Coal City regarding alleged obligations under the Diamond Agreement and Coal City Agreement; and

WHEREAS GPCC, Diamond and Coal City desire to settle the dispute pending between them on the terms and conditions set forth below.

PROVISIONS

NOW, THEREFORE, in consideration of the foregoing premises and for other good and valuable consideration (the sufficiency of which is hereby acknowledged by each of the Parties), it is hereby covenanted and agreed by and among the Parties hereto as follows:

1. Recitals. The above Recitals are hereby incorporated into this Agreement as though fully set forth herein.

2. GPCC Payment To Diamond / Coal City. Within five (5) business days of the Effective Date, as hereinafter defined, GPCC agrees to pay Diamond Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) (the "Settlement Funds"). Diamond shall deduct and retain from the Settlement Funds an amount equal to the accounts receivable balance due to Diamond from GPCC pursuant to the Diamond Agreement, which amount shall be itemized ("Itemization") and not exceed Twenty Thousand and no/100 Dollars (\$20,000.00). Diamond shall, within five (5) days of receipt of the Settlement Funds, (i) deliver to Coal City the Itemization and (ii) pay to Coal City one-half (1/2) of the remaining balance of the Settlement Funds after the aforesaid deduction, but in no event less than Two Hundred Fifteen Thousand and no/100 Dollars (\$215,000.00).

3. Termination of Agreements and LOC. Upon execution of this Agreement and payment of the Settlement Funds set forth in paragraph 2, (i) the Diamond Agreement, Coal City Agreement, and Recapture Agreement shall be terminated, (ii) GPCC may terminate the LOC, and (iii) Diamond, Coal City, Scaggs and GPCC will have no further past, present, or future rights or obligations under the Diamond Agreement, Coal City Agreement, Recapture Agreement, or LOC, including, but not limited to, GPCC having no further road work obligations relating to the Berta Intersection or the Richards Intersection, including any obligation to install street lights and/or traffic signals. Diamond, GPCC and Scaggs shall execute a recordable Release of the Recapture Agreement in the form attached hereto and made a part hereof as Exhibit B.

4. Tax Contributions. Coal City and Diamond shall not (individually or collectively): (i) approve any special service area or any special assessment district that includes the GPCC Property, wherein the special services involve or relate to (a) roadwork, bike paths, sewer work, traffic signals, lamp posts, landscaping, utilities, or other public improvements, as set forth in the Diamond Agreement or the Coal City Agreement, or (b) property exclusively outside of 1/8 mile radius of the GPCC Property, without the express prior written consent of GPCC or its successors or assigns; or (ii) impose any tax, fee, contribution, or exaction on the GPCC Property (including without limitation those intended to pay for roadwork, bike paths, sewer work, traffic signals, lamp posts, landscaping, utilities, or other public improvements) that are not generally applicable

throughout Coal City or Diamond (as the case may be), and in no event shall GPCC be responsible for greater than 10% of the total tax, fee, contribution, or exaction assessed.

5. Mutual Release. For the consideration exchanged, upon executing this Agreement, GPCC and Scaggs and Diamond and Coal City each hereby release and forever compromise, settle, and discharge each other from any and all claims, rights, causes of action, suits, obligations, debts, demands, agreements, promises, liabilities, controversies, costs, expenses, attorneys' fees, or damages of any kind (collectively the "Claims") whether known or unknown, accrued or not accrued, foreseen or unforeseen, or matured or not matured, that it ever had and which Claims are based upon, arise out of, or relate to the Diamond Agreement, Coal City Agreement, Recapture Agreement, and/or LOC.

6. No Admission of Wrongdoing. Diamond and Coal City agree that nothing contained in this Agreement, any document generated in connection with this Agreement, or action taken by GPCC in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of GPCC. GPCC agrees that nothing contained in this Agreement, any documents generated in connection with this Agreement, or any action taken by Diamond and Coal City in connection with this Agreement, constitutes an admission of wrongdoing or liability on the part of Diamond or Coal City.

7. Binding; Recording. This Agreement shall be binding upon the Parties hereto and their respective successors in interest, heirs, personal representatives and assigns. The Parties hereby agree that a fully executed and acknowledged memorandum of this Agreement in the form attached hereto and made a part hereof as Exhibit C, shall be executed by the Parties and recorded by GPCC at GPCC's sole expense against the GPCC Property.

8. Capacity and Authority. Each of the Parties represents and warrants that it has the legal capacity and authority to enter into this Agreement, and is not aware of any third party that has rights that could affect the validity or legality of this Agreement.

9. Claims Not Transferred. Each of the Parties further represents and warrants that it has not gifted, transferred, conveyed and/or assigned to any person or entity any Claims released in paragraph five (5), above.

10. Terms of Agreement Negotiated. This Agreement has been negotiated and drafted by GPCC, Diamond and Coal City and their respective attorneys. The Parties to this Agreement represent and warrant that they have read and understand this Agreement. No rule of construction shall apply to this Agreement construing its provisions in favor or against any of the Parties.

11. Notice. Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("email"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. Email notices shall be deemed valid only to the extent that they are (a) opened by the recipient on a

business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise provided in this Agreement, notices shall be deemed received after the first to occur of (a) the date of actual receipt; or (b) the date that is one (1) business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (b) the date that is three (3) business days after deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Paragraph, each party to this Agreement shall have the right to change the address or the addressee, or both, for all future notices and communications to them, but no notice of a change of addressee or address shall be effective until actually received.

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

Gendell Partners Coal City, LLC
3201 Old Glenview Road, Suite 300
Wilmette, Illinois 60091
ATTN: Scott H. Gendell

With a copy to:

Alex Marks, Esq.
Burke, Warren, MacKay & Serritella, P.C.
330 North Wabash, 21st Floor
Chicago, Illinois 60611

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

Village of Diamond
1750 Main Street
Diamond, IL 60416
ATTN: Village Clerk

With a copy to:

John S. Gallo
Tracy, Johnson & Wilson
2801 Black Road, Second Floor
Joliet, Illinois 60435

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

Village of Coal City
515 S. Broadway
Coal City, IL 60416
Attention: Village Administrator

With a copy to:

Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.
1979 N. Mill Street, Suite 207
Naperville, Illinois 60563
Attention: Mark Heinle

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

Scaggs Development Corp.
24655 Blackhawk Drive
Channahon, Illinois 60410
ATTN: Mark Scaggs

12. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by facsimile or electronic means shall be deemed legal and binding for all purposes.

13. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Illinois. Venue for any dispute which may arise out of this Agreement shall be exclusively in Grundy County, Illinois.

14. Time of the Essence. Time is of the essence in the performance of this Agreement. Coal City shall be responsible for contacting Scaggs' to obtain its execution of this Agreement and of any and all other documents necessary to effect the terms of this Agreement.

15. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.

16. Non-Waiver. The Parties will be under no obligation to exercise any of the rights granted to it in this Agreement. The failure of any Party to exercise at any time any right granted to it will not be deemed or construed to be a waiver of that right, nor will the failure void or affect any Government's right to enforce that right or any other right.

17. Exhibits. Exhibits A through C attached to this Agreement are, by this reference, incorporated in, and made a part of this Agreement. In the event of a conflict between an exhibit and the text of this Agreement, the text of this Agreement shall control.

18. Attorneys' Fees. Each Party shall bear its own attorneys' fees and costs in conjunction with this Agreement.

19. Severability. Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity of any other of its provisions or of the Agreement as a whole.

20. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to its subject matter. This Agreement may only be amended or modified by a written instrument signed by all Parties to this Agreement.

The Parties have signed this Agreement effective as of the date it is fully executed (the "Effective Date").

Date: _____ Gendell Partners Coal City, LLC
By: _____
Its: _____

Date: _____ Village of Diamond
By: _____
Its: _____

Date: Feb. 1, 2018 Village of Coal City
By: [Signature]
Its: President

Date: 3-12-18 Scaggs Development Corp
By: [Signature]
Its: President

Exhibit A
GPCC Property

Exhibit A
GPCC Property

1. Lot OL B in Meadow Estates Subdivision Phase I, being a subdivision part of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded November 29, 2006 as Document Number 471734, and the amended Plat thereof recorded December 12, 2008 as Document Number 495728, in Grundy County, Illinois.

P.I.N. 09-02-226-027

2. Lot OS103 in Meadow Estates Subdivision Phase I, being a subdivision part of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded November 29, 2006 as Document Number 471734, and the amended Plat thereof recorded December 12, 2008 as Document Number 495728, in Grundy County, Illinois.

P.I.N. 09-02-226-029

3. Lot OL A in Meadow Estates Subdivision Phase I, being a subdivision part of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded November 29, 2006 as Document Number 471734, and the amended Plat thereof recorded December 12, 2008 as Document Number 495728, in Grundy County, Illinois.

P.I.N. 09-02-226-030

4. Lot 2 in Berta Crossings Subdivision, being a subdivision of part of the Northeast Quarter of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, in Grundy County, Illinois.

P.I.N. 09-02-226-043

Exhibit B
Release and Recapture Agreement

Exhibit B

Prepared by and Return to:

John S. Gallo
Tracy, Johnson & Wilson
2801 Black Road, 2nd Floor
Joliet, Illinois 60435

RELEASE OF BERTA ROAD RECAPTURE AGREEMENT

The Village of Diamond, Illinois, an Illinois Municipal Corporation, of 1750 East Division Street, Diamond, Illinois ("Village of Diamond"), Scaggs Development Corp., an Illinois Corporation ("Scaggs") and Gendell Partners Coal City, LLC, an Illinois Limited Liability Company ("Gendell") do hereby certify that with respect to the property located in Grundy County, Illinois and legally described as follows:

See Attached Exhibit A

(hereinafter the "Property") and in consideration of Ten & no/100 Dollars (\$10.00) and all other good and valuable consideration, that all obligations due and owing with respect to the above-described Property pursuant to a certain Berta Road Recapture Agreement, dated July 12, 2012, between the Village of Diamond, Scaggs and Gendell recorded with the Grundy County Recorder's Office on November 5, 2012 as Document No. 533341 have been satisfied in full, and the above-described Property shall hereinafter be deemed released from any further obligations thereunder.

IN WITNESS WHEREOF, the Village of Diamond, Scaggs and Gendell has caused this Release of Berta Road Recapture Agreement to be executed this ____ day of _____, 2018.

VILLAGE OF DIAMOND, an Illinois Municipal Corporation.

Attest:

By: _____
Village Mayor

By: _____
Village Clerk

Scaggs Development Corp.

Gendell Partners Coal City, LLC

By: _____
Name: Mark E. Scaggs
Its: President

By: _____
Name: Scott H. Gendell
Its: Managing Member

STATE OF ILLINOIS)
) SS:
COUNTY OF GRUNDY)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Teresa Kernc, personally known to me to be the Mayor of the Village of Diamond, and Lori Holmes, personally known to me to be the Clerk of the Village of Diamond, and personally known to be to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as such Mayor and Clerk, respectively, as the free and voluntary act of the Village of Diamond, for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2018.

NOTARY PUBLIC

STATE OF ILLINOIS)
) SS:
COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Mark E. Scaggs, personally known to me to be the President of Scaggs Development Corp., and personally known to be to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such President, as the free and voluntary act of corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2018.

NOTARY PUBLIC

STATE OF ILLINOIS)
) SS:
COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Scott H. Gendell, personally known to me to be the Managing Member of Gendell Partners Coal City, LLC, and personally known to be to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such Managing Member, as the free and voluntary act of company, for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2018.

NOTARY PUBLIC

EXHIBIT A
LEGAL DESCRIPTION AND PINS

S & G RENTALS, INC. PARCEL:

THE WEST 259 FEET OF THE SOUTH 168.19 FEET OF THE NORTH 672.38 FEET OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN GRUNDY COUNTY, ILLINOIS.

**COMMONLY KNOWN AS: 125 S. BERTA ROAD, DIAMOND, ILLINOIS.
P.I.N. 09-01-101-023**

MCMURTY DAVID LLC PARCEL:

THAT PART OF SECTION 1, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SAID SECTION, ALSO BEING THE SOUTHWEST CORNER OF LAND DESCRIBED IN WARRANTY DEED RECORDED APRIL 15, 1998, AS DOCUMENT NO. 362013; THENCE NORTH 01 DEGREES 18 MINUTES 15 SECONDS WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER 1022.29 FEET TO THE NORTHWEST CORNER OF SAID DOCUMENT 362013, ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING NORTH 01 DEGREES 18 MINUTES 15 SECONDS WEST ALONG SAID WEST LINE, 300.60 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE NORTH 00 DEGREES 57 MINUTES 41 SECONDS WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, 1903.85 FEET TO THE SOUTHWEST CORNER OF LANDS DESCRIBED IN TRUSTEE'S DEED RECORDED JUNE 21, 1999, AS DOCUMENT NO. 373976; THENCE NORTH 88 DEGREES 15 MINUTES 01 SECONDS EAST ALONG THE SOUTH LINE OF SAID DOCUMENT NO. 373976, A DISTANCE OF 259.02 FEET TO THE SOUTHEAST CORNER OF SAID DOCUMENT NO. 373976; THENCE NORTH 00 DEGREES 57 MINUTES 41 SECONDS WEST ALONG THE EAST LINE OF SAID DOCUMENT NO. 373976, A DISTANCE OF 168.21 FEET TO THE NORTHEAST CORNER OF SAID DOCUMENT NO. 373976; THENCE SOUTH 88 DEGREES 15 MINUTES 01 SECONDS WEST ALONG THE NORTH LINE OF SAID DOCUMENT NO. 373976, A DISTANCE OF 259.02 FEET TO THE NORTHEWEST CORNER OF SAID DOCUMENT NO. 373976, ALSO BEING A POINT ON THE WEST LINE OF THE AFORESAID NORTHWEST QUARTER; THENCE NORTH 00 DEGREES 57 MINUTES 41 SECONDS WEST ALONG SAID WEST LINE 329.24 FEET TO THE SOUTHWEST CORNER OF LANDS DESCRIBED IN WARRANTY DEED RECORDED FEBRUARY 23, 1982 AS DOCUMENT NO. 269766; THENCE NORTH 88 DEGREES 15 MINUTES 01 SECONDS EAST ALONG THE SOUTH LINE OF SAID DOCUMENT NO. 269766, A DISTANCE OF 336.50 FEET TO THE SOUTHEAST CORNER OF SAID DOCUMENT 269766; THENCE NORTH 00 DEGREES 57 MINUTES 41 SECONDS WEST ALONG THE EAST LINE OF SAID DOCUMENT NO. 269766, A DISTANCE OF 175.00 FEET TO THE NORTHEAST CORNER OF SAID DOCUMENT NO. 269766, ALSO BEING A POINT ON THE NORTH LINE OF THE AFORESAID NORTHWEST QUARTER; THENCE NORTH 88 DEGREES 15 MINUTES 01 SECONDS EAST ALONG SAID NORTH LINE 43.50 FEET TO A POINT IN THE NORTHEAST CORNER OF LANDS DESCRIBED IN WARRANTY DEED RECORDED JANUARY 6, 1994 AS DOCUMENT NO. 329532; THENCE SOUTH 52 DEGREES 32 MINUTES 40 SECONDS EAST ALONG THE SOUTHWESTERLY LINE OF SAID DOCUMENT NO. 329532, A DISTANCE OF

554.71 FEET TO THE SOUTHWEST CORNER OF LAND DESCRIBED IN INDEPENDENT EXECUTOR'S DEED RECORDED APRIL 17, 2001, AS DOCUMENT NO. 390204; THENCE SOUTH 46 DEGREES 21 MINUTES 54 SECONDS EAST ALONG THE SOUTHERLY LINE OF SAID DOCUMENT NO. 390204, A DISTANCE OF 161.75 FEET TO THE SOUTHEAST CORNER OF SAID DOCUMENT NO. 390204, ALSO BEING A POINT ON THE WESTERLY LINE OF DIAMOND FIELD, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 25, 1996 AS DOCUMENT NO. 347430; THENCE SOUTH 06 DEGREES 38 MINUTES 49 SECONDS WEST ALONG SAID WESTERLY LINE, 22.42 FEET TO THE SOUTHWEST CORNER OF SAID DIAMOND FIELD; THENCE SOUTH 48 DEGREES 10 MINUTES 13 SECONDS EAST ALONG THE SOUTHWESTERLY LINE AS DEPICTED ON THE PLAT OF SAID DIAMOND FIELD, 1632.65 FEET TO THE SOUTHEAST CORNER OF SAID DIAMOND FIELD, THENCE SOUTH 50 DEGREES 12 MINUTES 00 SECONDS EAST 254.94 FEET TO THE NORTHWEST CORNER OF DIAMOND ESTATES SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT NO. 344792; THENCE SOUTH 00 DEGREES 57 MINUTES 41 SECONDS EAST ALONG THE WEST LINE OF SAID DIAMOND ESTATES SUBDIVISION, 819.89 FEET TO A POINT ON THE SOUTH LINE OF THE AFORESAID NORTHWEST QUARTER; THENCE SOUTH 01 DEGREES 18 MINUTES 15 SECONDS EAST CONTINUING ALONG SAID WEST LINE, 298.74 FEET TO THE NORTHEAST CORNER OF LANDS DESCRIBED IN AFORESAID DOCUMENT NO. 362013; THENCE SOUTH 88 DEGREES 51 MINUTES 15 SECONDS WEST ALONG THE NORTH LINE OF SAID DOCUMENT NO. 362013, A DISTANCE OF 2318.00 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE RIGHT OF WAY OF ILLINOIS ROUTE 113, IN GRUNDY COUNTY, ILLINOIS.

COMMONLY KNOWN AS: 112 ACRES AT SOUTHEAST CORNER OF BERTA ROAD AND ROUTE 113, DIAMOND, ILLINOIS.

P.I.N. 09-01-101-022 and 09-01-151-002

MIDLAND STATES BANK PARCELS:

PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION, THENCE SOUTH 125 FEET, THENCE EAST 234.5 FEET, THENCE NORTH 125 FEET TO THE NORTH LINE OF SAID SECTION, THENCE WEST 234.5 FEET TO THE POINT OF BEGINNING, (EXCEPT COAL AND OTHER MINERALS UNDERLYING THE PREMISES IN QUESTION AND THE RIGHT TO MINE AND REMOVE THE SAME), IN GRUNDY COUNTY, ILLINOIS.

P.I.N. 09-01-101-001

COMMENCING AT THE NORTHWEST CORNER OF SECTION 1, TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH 89 DEGREES 30 MINUTES 48 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 1 FOR A DISTANCE OF 234.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 30 MINUTES 48 SECONDS EAST ALONG SAID NORTH LINE FOR A DISTANCE OF 102.00 FEET; THENCE DUE SOUTH FOR A DISTANCE OF 175.00 FEET; THENCE SOUTH 89 DEGREES 30 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 336.50 FEET TO A POINT WHICH FALLS ON THE WEST LINE OF SAID SECTION 1, THENCE DUE NORTH ALONG THE SAID WEST LINE FOR A DISTANCE OF 50.00 FEET; THENCE NORTH

**89 DEGREES 30 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 234.50 FEET;
THENCE DUE NORTH FOR A DISTANCE OF 125.00 FEET TO THE POINT OF
BEGINNING, ALL LOCATED IN THE NORTHWEST QUARTER OF SECTION 1,
TOWNSHIP 32 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN,
VILLAGE OF DIAMOND, IN GRUNDY COUNTY, ILLINOIS.**

P.I.N. 09-01-101-009

**BOTH PARCELS COMMONLY KNOWN AS: 1275 E. DIVISION STREET, DIAMOND,
ILLINOIS**

Exhibit C

This Instrument was prepared by
and after recording return to:

Alex Marks, Esq.
Burke, Warren, MacKay & Serritella, P.C.
330 North Wabash, 21st Floor
Chicago, Illinois 60611

MEMORANDUM OF SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS MEMORANDUM OF SETTLEMENT AGREEMENT AND GENERAL RELEASE ("Memorandum") is made as of the _____ day of _____, 2018, among Gendell Partners Coal City, LLC whose mailing address is 3201 Old Glenview Road, Suite 300, Wilmette, Illinois ("GPCC"), Scaggs Development Corp, whose mailing address is 24655 Blackhawk Drive, Channahon, Illinois ("Scaggs"), Village of Diamond whose mailing address is 1750 E. Division Street, Diamond, Illinois ("Diamond") and Village of Coal City whose mailing address is 515 S. Broadway, Coal City, Illinois ("Coal City").

RECITALS:

A. GPCC owns the real property legally described on Exhibit A attached hereto (the "GPCC Property");

B. A portion of the GPCC Property is located within the corporate limits of Diamond and a portion of the GPCC Property is located within the corporate limits of Coal City;

C. On May 11, 2008, Diamond, Scaggs and GPCC entered into the "Development Agreement (Berta Road)", recorded with the Grundy County Recorder on May 30, 2008 as Document No. 490132, which, among other matters, related to the development of the GPCC Property and to certain improvements to the intersection of Berta Road and Illinois State Route 113 (the "Berta Intersection") and Richards Street and Illinois State Route 113 (the "Richards Intersection"), which agreement was thereafter twice amended (collectively, with all amendments, the "Diamond Agreement");

D. On August 21, 2012, Coal City, Scaggs and GPCC entered into the "Development Agreement," which, inter alia, related to the development of the GPCC Property and re-stated

obligations set forth in the Diamond Agreement relating to the Richards Intersection (the "Coal City Agreement");

E. GPCC, Scaggs, Diamond and Coal City entered into a certain Settlement Agreement and General Release dated as of _____, 2018 (said Settlement Agreement and General Release, together with any and all amendments, modifications and replacements thereof now existing or hereafter entered into, collectively the "Agreement"), regarding the termination of the Diamond Agreement and the Coal City Agreement.

NOW, THEREFORE, for and in consideration of the entry into the Agreement by and among GPCC, Scaggs, Diamond and Coal City and for the consideration referred to in the Agreement, the receipt and adequacy of which are hereby acknowledged by each party hereto, the parties hereto hereby confirm and agree as follows:

1. **Definitions.** To the extent not otherwise defined in this Memorandum, all capitalized terms shall have the same meaning as are ascribed to them in the Agreement.

2. **Confirmation of Agreement.** The parties hereto hereby acknowledge and confirm the existence of the Agreement.

3. **Settlement.** The Agreement provides that the Diamond Agreement, Coal City Agreement, Recapture Agreement and the LOC shall be terminated and that GPCC, Scaggs, Diamond and Coal City shall have no further rights or obligations under the Diamond Agreement, Coal City Agreement, Recapture Agreement or the LOC, including but not limited to GPCC having no further road work obligations relating to the Berta Intersection or the Richards Intersection.

4. **Incorporation of Agreement.** All of the terms, covenants, conditions and agreements in the Agreement are hereby incorporated herein by this reference. The Parties hereto agree to observe, conform to, and comply with all of the terms, covenants, conditions and agreements so incorporated herein. The execution, delivery and recording of this Memorandum is intended to disclose the existence of the Agreement but is not intended to and shall not change, modify, amend, alter, impair or enlarge the Agreement or the operation or effect of the terms and provisions thereof.

5. **Binding Effect.** This Memorandum shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

6. **Recording.** The parties hereto agree that this Memorandum shall be recorded in the public records of Grundy County, Illinois.

7. **Counterparts.** This Memorandum may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Memorandum.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Settlement Agreement and General Release as of the day and year first above written.

GPCC:

GENDELL PARTNERS COAL CITY, LLC

By: _____
Name: _____
Title: _____

STATE OF ILLINOIS)
) SS:
COUNTY OF _____)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Scott H. Gendell, personally known to me to be the Managing Member of Gendell Partners Coal City, LLC, and personally known to be to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such Managing Member, as the free and voluntary act of company, for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2018.

NOTARY PUBLIC

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

SCAGGS:

SCAGGS DEVELOPMENT CORP,

By: Mark Scaggs
Name: MARK SCAGGS
Title: President

STATE OF ILLINOIS)
) SS:
COUNTY OF Stundy)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Mark E. Scaggs, personally known to me to be the President of Scaggs Development Corp., and personally known to be to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such President, as the free and voluntary act of corporation, for the uses and purposes therein set forth.

Given under my hand and official seal this 12 day of March, 2018.

Pamela M. Noffsinger
NOTARY PUBLIC
"OFFICIAL SEAL"
PAMELA M. NOFFSINGER
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES APRIL 2, 2019

DIAMOND:

**VILLAGE OF DIAMOND, an Illinois
Municipal Corporation**

By: _____
Name: _____
Title: _____

Attest:

By: _____
Name: _____
Title: _____

STATE OF ILLINOIS)
) SS:
COUNTY OF GRUNDY)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Teresa Kernc, personally known to me to be the Mayor of the Village of Diamond, and Lori Holmes, personally known to me to be the Clerk of the Village of Diamond, and personally known to be to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as such Mayor and Clerk, respectively, as the free and voluntary act of the Village of Diamond, for the uses and purposes therein set forth.

Given under my hand and official seal this _____ day of _____, 2018.

NOTARY PUBLIC

COAL CITY:

**VILLAGE OF COAL CITY, an Illinois
Municipal Corporation**

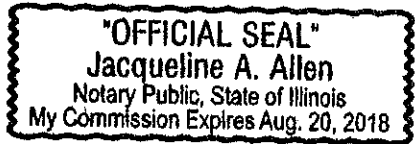
By: Terry Halliday
Name: Terry Halliday
Title: President

Attest:
By: Pamela M Noffsinger
Name: Pamela Noffsinger
Title: Village Clerk

STATE OF ILLINOIS)
) SS:
COUNTY OF GRUNDY)

I, the undersigned, a notary public in and for said County, in the State aforesaid, do hereby certify that Terry Halliday, personally known to me to be the Mayor of the Village of Coal City, and Pamela M. Noffsinger, personally known to me to be the Clerk of the Village of Coal City, and personally known to be to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as such Mayor and Clerk, respectively, as the free and voluntary act of the Village of Coal City, for the uses and purposes therein set forth.

Given under my hand and official seal this 1st day of February, 2018.



Jacqueline A. Allen
NOTARY PUBLIC

Exhibit A
GPCC Property

1. Lot OL B in Meadow Estates Subdivision Phase I, being a subdivision part of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded November 29, 2006 as Document Number 471734, and the amended Plat thereof recorded December 12, 2008 as Document Number 495728, in Grundy County, Illinois.

P.I.N. 09-02-226-027

2. Lot OS103 in Meadow Estates Subdivision Phase I, being a subdivision part of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded November 29, 2006 as Document Number 471734, and the amended Plat thereof recorded December 12, 2008 as Document Number 495728, in Grundy County, Illinois.

P.I.N. 09-02-226-029

3. Lot OL A in Meadow Estates Subdivision Phase I, being a subdivision part of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, according to the Plat thereof recorded November 29, 2006 as Document Number 471734, and the amended Plat thereof recorded December 12, 2008 as Document Number 495728, in Grundy County, Illinois.

P.I.N. 09-02-226-030

4. Lot 2 in Berta Crossings Subdivision, being a subdivision of part of the Northeast Quarter of Section 2, Township 32 North, Range 8 East of the Third Principal Meridian, in Grundy County, Illinois.

P.I.N. 09-02-226-043