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**THE VILLAGE OF TINLEY PARK**

**Cook County, Illinois**

**Will County, Illinois**

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**RESOLUTION**

**NO. 2019-R-040**

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**A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT AND  
RELEASE BETWEEN THE REGIONAL TRANSPORTATION  
AUTHORITY (RTA); COUNTY OF COOK; VILLAGE OF FOREST  
VIEW; VILLAGE OF TINLEY PARK; VILLAGE OF LEMONT;  
VILLAGE OF ORLAND PARK; ELK GROVE VILLAGE; VILLAGE OF  
MELROSE PARK; VILLAGE OF HAZEL CREST; VILLAGE OF  
NORTH BROOK AND PLAINTIFFS AND THE CITY OF KANKAKEE  
AS DEFENDANT RELATIVE TO COOK COUNTY CONSOLIDATED  
CASES 2011 CH 29744 AND 2011 CH 34266 INVOLVING THE MATTER  
OF SOURCING AND REPORTING OF SALES TAXES**

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**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**

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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

**VILLAGE OF TINLEY PARK**  
Cook County, Illinois  
Will County, Illinois

**RESOLUTION NO. 2019-R-040**

**A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT AND  
RELEASE BETWEEN THE REGIONAL TRANSPORTATION  
AUTHORITY (RTA); COUNTY OF COOK; VILLAGE OF FOREST  
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OF SOURCING AND REPORTING OF SALES TAXES**

**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 21<sup>st</sup> day of May, 2019.

AYES: Berg, Brady, Brennan, Galante, Glotz, Mueller

NAYS: None

ABSENT: None

APPROVED THIS 21<sup>st</sup> day of May, 2019.



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VILLAGE PRESIDENT

ATTEST:



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VILLAGE CLERK

## SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (“Agreement”) made as of the \_\_\_\_\_ day of April, 2019, by and between the Plaintiffs to consolidated cases 2011 CH 29744 and 2011 CH 34266 (the REGIONAL TRANSPORTATION AUTHORITY (the RTA); the COUNTY OF COOK; the VILLAGE OF FOREST VIEW; the VILLAGE OF TINLEY PARK; the VILLAGE OF LEMONT; the VILLAGE OF ORLAND PARK; ELK GROVE VILLAGE; the VILLAGE OF MELROSE PARK; the VILLAGE OF HAZEL CREST; and the VILLAGE OF NORTHBROOK (collectively, “PLAINTIFFS”)) and Defendant the CITY OF KANKAKEE (KANKAKEE), WITNESSETH.

### RECITALS

WHEREAS, the RTA is a special purpose unit of local government and municipal corporation of the State of Illinois with service to and jurisdiction over the following counties in respect to mass ground public transit: Cook, DuPage, Kane, Lake, McHenry, and Will;

WHEREAS, the COUNTY of COOK is a body politic and corporate of the State of Illinois;

WHEREAS, the Villages of FOREST VIEW; TINLEY PARK; ORLAND PARK; ELK GROVE VILLAGE; HAZEL CREST; and NORTHBROOK are Illinois home rule municipalities;

WHEREAS, the Villages of LEMONT and MELROSE PARK are Illinois non-home rule municipalities;

WHEREAS, the PLAINTIFFS are entitled to certain shares of retailers’ occupation taxes imposed on the business of selling tangible personal property within their jurisdictions pursuant to state law (“sales tax”);

WHEREAS, KANKAKEE is an Illinois home rule municipality in Kankakee County, Illinois.

WHEREAS, at all times relevant, KANKAKEE was party to multiple written non-brokered economic development agreements (the “Direct EDAs”) with certain retailers identified in Counts IV, V, VI and VII of the Sixth Amended Complaint filed by RTA in the Lawsuit referenced below (the “RETAILERS”). Pursuant to the Direct EDAs, the RETAILERS reported to the Illinois Department of Revenue (the “Department”) that certain of their sales took place in KANKAKEE, and thereafter received incentive payments measured as a percentage of taxes collected from their reported retail sales in that municipality;

WHEREAS, the PLAINTIFFS assert that the RETAILERS subject to the Direct EDAs engaged in the business of selling within one or more of the PLAINTIFFS’ taxing jurisdictions, but improperly reported those sales as taking place in KANKAKEE;

WHEREAS, the PLAINTIFFS assert that, as a result of the mis-reporting of retail sales as taking place in KANKAKEE, the PLAINTIFFS lost sales tax revenues that would otherwise have been paid to them by the State of Illinois, as well as a 30% Public Transportation Fund match payable to the RTA pursuant to 70 ILCS 3615/4.09(a)(1)-(2);

WHEREAS, KANKAKEE denies the impropriety of entering into the Direct EDAs; denies that there has been any mis-sourcing or mis-reporting of retail sales; denies that it facilitated any mis-sourcing or mis-reporting of retail sales in any respect; and further denies that the PLAINTIFFS lost any sales tax revenue as a result of their actions;

WHEREAS, the PLAINTIFFS brought suit against KANKAKEE and others in the Circuit Court of Cook County, Illinois, as consolidated cases 2011 CH 29744 and 2011 CH 34266 (the "Lawsuit") alleging violations of Illinois statutory and common law, including violations of 65 ILCS 5/8-11-21, and losses due to the improper sourcing of sales taxes;

WHEREAS, KANKAKEE denies any wrongdoing or violation of law, and further denies any liability to PLAINTIFFS; and

WHEREAS, the aforementioned parties are desirous of resolving all contested matters presently existing in regard to KANKAKEE's Direct EDAs with RETAILERS;

NOW, THEREFORE, IT IS AGREED as follows:

### SETTLEMENT TERMS

1. Each of the recitals set forth above is expressly incorporated herein.
2. KANKAKEE shall cause to be paid to the PLAINTIFFS the sum of Four Hundred Thousand dollars (\$400,000.00) (the "Settlement Amount") within seven (7) days of execution of this Agreement. Said payment shall be delivered and made payable to the RTA and the County of Cook for distribution among the PLAINTIFFS in any manner agreed to by and between the PLAINTIFFS.
3. Commencing not later than the date of execution of this Agreement, KANKAKEE will terminate any and all agreements between it and the RETAILERS regarding the sourcing of sales taxes to KANKAKEE and will not re-enter, renew, or otherwise make operational the Direct EDAs previously entered with the RETAILERS regarding the sourcing of sales taxes.
4. KANKAKEE agrees to follow and abide by the laws of the State of Illinois and the regulations promulgated by the Department regarding the sourcing and reporting of retail sales for tax purposes, as now in effect and to be amended and/or enacted in the future.
5. Notwithstanding anything to the contrary herein, this Agreement shall not preclude or prohibit KANKAKEE from entering into EDAs allowed by law.
6. If KANKAKEE determines at any time in the future to enter into an EDA or like agreement with any retailer that engages in the business of selling within the RTA's six-county taxing jurisdiction, it agrees to provide the RTA and all other PLAINTIFFS where the retailer has a retail location or warehouse with written notice of the terms of the contemplated EDA or like agreement at least 30 days before said EDA or like agreement is to become effective. Said written notice shall describe the contemplated sales activity and shall be delivered by e-mail to the persons identified in Exhibit A, attached hereto.
7. Within three (3) business days following receipt of payment, the PLAINTIFFS shall file an Agreed Order dismissing with prejudice their pending causes of action relating to the Direct EDAs between KANKAKEE and the RETAILERS (Counts IV, V, VI and VII of the Sixth Amended Complaint in 2011 CH 29744 and Counts IV, V and VI of the Third Amended Complaint in 2011 CH 34266).

8. All other claims now pending in the Lawsuit that are unrelated to KANKAKEE'S Direct EDAs with the RETAILERS are unaffected by this settlement.
9. Release of KANKAKEE – In consideration for the above-described payment and the other consideration set forth herein, the PLAINTIFFS hereby fully and forever release, remise, acquit and discharge KANKAKEE, and its successors, affiliates, related entities, subsidiaries, divisions, departments, guarantors, sureties, insurers, members, principals, agents, past and present employees, representatives, attorneys, assigns, heirs, executors, officers and elected officials (“KANKAKEE RELEASED PARTIES”) from any and all claims, actions, causes of action, suits, set-offs, contributions, counterclaims, damages, debts, costs, expenses, attorneys’ fees or other fees whatsoever, based on any legal or equitable theory, right of action or otherwise, asserted or unasserted, foreseen or unforeseen, accrued or not accrued, which the PLAINTIFFS now hold or may at any time own or hold against the KANKAKEE RELEASED PARTIES by reason of any acts, circumstances, facts, events or transactions relating to the KANKAKEE Direct EDAs, as well as the activities of any RETAILER that received sales tax rebates from KANKAKEE directly or indirectly as a result of the KANKAKEE Direct EDAs. Nothing herein shall be construed to release KANKAKEE from any obligations under this Agreement.
10. Release of the RETAILERS – In consideration for the above-described payment and the other consideration set forth herein, the PLAINTIFFS hereby fully and forever release, remise, acquit and discharge, the RETAILERS identified in Counts IV, V, VI and VII of the Sixth Amended Complaint in 2011 CH 29744 or Counts IV, V and VI of the Third Amended Complaint in 2011 CH 34266, as well as their successors, affiliates, related entities, subsidiaries, guarantors, sureties, insurers, members, principals, agents, past and present employees, representatives, attorneys, assigns, heirs, executors, officers and directors (the “RELEASED RETAILERS”) from any and all claims, actions, causes of action, suits, set-offs, contributions, counterclaims, damages, debts, costs, expenses, attorneys’ fees or other fees whatsoever, based on any legal or equitable theory, right of action or otherwise, asserted or unasserted, foreseen or unforeseen, accrued or not accrued, which the PLAINTIFFS now hold or may at any time own or hold against the RELEASED RETAILERS by reason of any acts, circumstances, facts, events or transactions occurring before the effective date of this Agreement governed by or implicating the KANKAKEE Direct EDAs including, but not limited to, any matters relating in any way to the Lawsuit. Nothing herein shall be construed to release the RELEASED RETAILERS from any causes of action pending against them for EDAs with the Village of Channahon or any other municipality other than KANKAKEE, or any of their obligations under this Agreement. As additional consideration and as a condition precedent for the release set forth in this paragraph, each RETAILER identified in Counts IV, V, VI and VII of the Sixth Amended Complaint in 2011 CH 29744 and Counts IV, V and VI of the Third Amended Complaint in 2011 CH 34266 shall execute and deliver to PLAINTIFFS a release of the PLAINTIFFS in the form attached as Exhibit B within seven (21) days of execution of this Agreement. The release set forth in this paragraph shall not apply to any person or entity for which a release of the PLAINTIFFS in the form attached as Exhibit B has not been executed and delivered to PLAINTIFFS within seven (21) days of execution of this Agreement, unless the parties mutually agree to further extend that deadline.
11. Avoidance of Double Recovery in Future Audits. By executing this Agreement, the PLAINTIFFS each agree not to seek recovery of their respective retailers’ occupation

taxes or their portion of state use tax monies from any RELEASED RETAILER, or from KANKAKEE with respect to the sales of any RELEASED RETAILER, in whole or in part, jointly or separately, related to any retailers' occupation tax or use tax monies allocated to KANKAKEE as a result of any RELEASED RETAILER reporting its sales as having occurred in KANKAKEE before the effective date of this Agreement, including by virtue of any examination of any RELEASED RETAILER by the Department covering the Settlement Period. To wit, if the Department examines any RELEASED RETAILER for any period before the effective date of this Agreement, such RELEASED RETAILER shall be permitted – pursuant to this paragraph – to make the Department aware of this Agreement and the “Release of the RETAILERS” contained herein. Should the Department determine that any liability exists related to any PLAINTIFF, for any sale by any RELEASED RETAILER covering any portion of the period before the effective date of this Agreement, and insist upon collecting those amounts on behalf of any PLAINTIFF, then, in respect of the release contained in this Agreement and in order to avoid a double recovery or a recovery of amounts in excess of those agreed to and received under this Agreement, the PLAINTIFF or PLAINTIFFS will pay any such monies received from the Department as a result of such a finding as to any RELEASED RETAILER, within fourteen (14) days of receipt, into an escrow account (the “Account”) to be maintained by a third-party escrow agent (the “Agent”). Any funds distributed into that Account shall be distributed by the Agent on a pro rata basis to KANKAKEE and the RELEASED RETAILERS consistent with their respective contributions to the Settlement Amount.

12. Release of the PLAINTIFFS – In consideration of the rights, obligations and other terms as stated in this Agreement, KANKAKEE hereby fully and forever releases, remises, acquits and discharges PLAINTIFFS and their successors, affiliates, related entities, subsidiaries, guarantors, sureties, insurers, members, principals, agents, past and present employees, representatives, attorneys, assigns, heirs, executors, officers and directors (collectively, “PLAINTIFF RELEASED PARTIES”) from any and all claims, actions, causes of action, suits, set-offs, contributions, counterclaims, damages, debts, costs, expenses, attorneys’ fees or other fees whatsoever, based on any legal or equitable theory, right of action or otherwise, asserted or unasserted, foreseen or unforeseen, accrued or not accrued, which KANKAKEE now holds or may at any time own or hold against the PLAINTIFF RELEASED PARTIES by reason of any acts, circumstances, facts, events or transactions relating to the KANKAKEE Direct EDAs, as well as the activities of any RETAILER that received sales tax rebates from KANKAKEE directly or indirectly as a result of a KANKAKEE Direct EDA. Nothing herein shall be construed to release the PLAINTIFFS from any obligations under this Agreement.
13. Except as set forth in paragraph 11 of this Agreement, the parties acknowledge and agree that this settlement shall in no way affect the distribution of funds or the assessment of liability that may be made pursuant to the Department’s pending and/or future audits of any of the released parties and/or related retailers.
14. Each and every term of this Agreement shall be binding upon and inure to the benefit of each party’s successors and assigns.
15. Nothing in this Agreement can be construed as an admission or acknowledgement of wrongdoing or liability on behalf of KANKAKEE or any RETAILER. This Agreement constitutes the compromise of disputed claims, causes of actions, denials, defenses made or to be made by the Parties or any of them, and is being entered into solely for the purpose of bringing to an end the real or potential claims referred to herein and to avoid

further costs of litigation. The Parties understand and agree that neither their entry into this Agreement nor the payment of money pursuant to this Agreement shall constitute an admission of liability by any Party to any person or entity. This Agreement, each of its provisions, any prior drafts thereof, any negotiations, proceedings, or agreements relating to it, and any matter arising in connection with such negotiations, proceedings, or agreements shall not be offered or received in evidence in any litigation other than litigation brought to enforce the terms of this Agreement.

16. The RETAILERS are intended third-party beneficiaries of this Agreement, and may rely upon and avail themselves of the Release provided by this Agreement in any future litigation, or threatened litigation, with the PLAINTIFF RELEASED PARTIES. This Agreement may not be relied upon for any purpose by, or create any rights in, any other person who is not a party to this Agreement or a released party.
17. This Agreement constitutes the entire, complete and integrated statement of each and every term and provision agreed to by and among the parties and is not subject to any condition not provided for herein. This Agreement supersedes any prior representations, promises, or warranties (oral or otherwise) made by any party in respect to this matter, and no party shall be liable or bound to any other party for any prior representation, promise or warranty (oral or otherwise) except for those expressly set forth in this Agreement. This Agreement shall not be modified in any respect except by a writing executed by all parties hereto.
18. It is acknowledged that each party, with the assistance of competent counsel, has participated in the drafting of this Agreement. The parties agree that this Agreement has been negotiated at arms' length by parties of equal bargaining power, each of whom was represented by competent counsel of its own choosing. None of the parties hereto shall be considered to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter.
19. The parties expressly declare and represent that they have read this Agreement and that they have consulted with their respective counsel regarding the meaning of the terms and conditions contained herein. The parties further expressly declare and represent that they fully understand the content and effect of this Agreement, that they approve and accept the terms and conditions contained herein, and that they enter into this Agreement willingly, knowingly, and without compulsion.
20. Should any of the provisions of this Agreement be declared or determined by any Court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provisions shall be deemed not to be a part of this Agreement, unless the illegality or invalidity of the illegal or invalid part, term or provision causes this Agreement to fail of its essential purpose, in which case, this entire Agreement shall become invalid and shall be null and void.
21. Each of the undersigned further declares and represents that he or she is competent to execute this instrument and that he or she is duly authorized, and has the full legal right and authority, to execute this Agreement on behalf of the party for whom he or she is signing.
22. The parties shall bear their own expenses, including costs and attorneys' fees, incurred in connection with the negotiation, drafting, and execution of this Agreement, and all



matters relating to the subject matter herein.

23. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Agreement.
24. The parties agree that the terms of this Agreement are contractual and that any dispute as to its interpretation shall be interpreted in accordance with the laws of the State of Illinois, without reference to principles of choice or conflict of laws.
25. The parties agree that any dispute regarding or arising out of this Agreement must be brought and heard in the Circuit Court of Cook County, Illinois and the parties hereby consent to the venue and exercise of jurisdiction over them by such courts.
26. The Parties agree that the contents of this Agreement may be disclosed, subject to the provisions of this Agreement, only: (1) to the members of the RTA Board, to any and all of the members and staff of the RTA's three Service Boards (the Chicago Transit Authority, the Commuter Rail Division of the Regional Transportation Authority (also commonly referred to as "Metra"), and the Suburban Bus Division of the Regional Transportation Authority (also commonly referred to as "Pace")); (2) to members of the Cook County Board and its staff; (3) to members of the Village Boards of the PLAINTIFF municipalities and their staff; (4) to KANKAKEE's Mayor and members of its City Council; (5) to attorneys, accountants, appraisers and other persons for the purpose of providing accounting or tax advice or services to the Parties; (6) in any legal dispute between or among any the Parties to this Agreement; and (7) in accordance with an order entered by a court of competent jurisdiction.

Moreover, acknowledging that the Parties are public bodies subject to the Illinois Freedom of Information Act ("FOIA") and other public disclosure requirements, it is therefore agreed that if there is a legally required public disclosure of any of the terms of this Agreement pursuant to FOIA or other public disclosure law, the disclosing Party shall notify the non-disclosing Parties in writing at least three (3) business days prior to such disclosure of any of the terms of this Agreement pursuant to such requirement. Written notice shall be provided to the non-disclosing Parties as follows: General Counsel, Regional Transportation Authority, 175 W. Jackson Blvd., Suite 1650, Chicago IL 60604; Deputy Director of Tax Compliance, Cook County Department of Revenue, 118 N. Clark Street, Room 1160, Chicago, IL 60602; and Comptroller, City of Kankakee, 304 South Indiana Ave., Kankakee, Illinois 60901. Except for the permitted disclosures referenced above, the Parties further agree not to initiate publicity regarding the fact of settlement, and not to make any public statement regarding the settlement except as required by law or as set forth below in this paragraph. If media requests are received or questions raised regarding this Agreement, the party to whom the request is made shall respond, without elaboration: "In recognition of the hazards and expenses of litigation, the parties decided to settle this lawsuit. Further comment regarding the settlement is prohibited by the parties' Settlement Agreement." The individuals to whom the contents of this Agreement are disclosed pursuant to subsections (1) through (5) of this paragraph ("Party-Related Information Recipients") are bound by this paragraph as if they had specifically signed this Agreement. Violations of this paragraph by Party-Related Information Recipients shall be deemed violations by the party who discloses the Agreement to the Party-Related Information Recipient who violates the provisions of this

paragraph.

WHEREFORE, the parties set their hands as of the date first above written.

REGIONAL TRANSPORTATION AUTHORITY

CITY OF KANKAKEE

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

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

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

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

COUNTY OF COOK

VILLAGE OF FOREST VIEW

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

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

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

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

VILLAGE OF TINLEY PARK

VILLAGE OF LEMONT

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

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

Its: Village President \_\_\_\_\_

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

VILLAGE OF ORLAND PARK

ELK GROVE VILLAGE

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

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

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

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

VILLAGE OF MELROSE PARK

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

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

VILLAGE OF HAZEL CREST

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

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

VILLAGE OF NORTHBROOK

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

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

**EXHIBIT A TO SETTLEMENT AGREEMENT AND RELEASE**  
**PLAINTIFFS' CONTACT LIST**

**The Regional Transportation Authority**

RTA General Counsel and Deputy General Counsel: Nadine Lacombe, Allison Noback

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TABET DIVITO & ROTHSTEIN LLC

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**The County of Cook**

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**Village of Forest View**

Village Administrator: Mark Masciola

ROSENTHAL, MURPHEY, COBLENTZ & DONAHUE

Judith Kolman

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Chicago, IL 60602

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**Village of Tinley Park**

Village Manager and Treasurer: Dave Niemeyer, Brad Bettenhausen  
KLEIN, THORPE & JENKINS, LTD.

Terrence M. Barnicle, Thomas M. Melody, Howard C. Jablecki  
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**Village of Orland Park**

Village Manager and Finance Director: Joseph S. LaMargo and Annmarie Mampe  
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**Village of Lemont**

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**Village of Northbrook**

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**Elk Grove Village**

George Knickerbocker, Village Attorney

ELK GROVE VILLAGE

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**Village of Hazel Crest**

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ROSENTHAL, MURPHEY, COBLENTZ & DONAHUE  
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**Village of Melrose Park**

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[zimmer@dlglawgroup.com](mailto:zimmer@dlglawgroup.com)

**EXHIBIT B TO SETTLEMENT AGREEMENT AND RELEASE**  
**RECIPROCAL RELEASE AGREEMENT BY RETAILERS**

THIS RELEASE AGREEMENT ("Release") made as of the \_\_\_\_\_ day of April, 2019, by and between \_\_\_\_\_ ("RETAILER") and the Plaintiffs to consolidated cases 2011 CH 29744 and 2011 CH 34266 (the REGIONAL TRANSPORTATION AUTHORITY (the RTA); the COUNTY OF COOK; the VILLAGE OF FOREST VIEW; the VILLAGE OF TINLEY PARK; the VILLAGE OF LEMONT; the VILLAGE OF ORLAND PARK; ELK GROVE VILLAGE; the VILLAGE OF MELROSE PARK; the VILLAGE OF HAZEL CREST; and the VILLAGE OF NORTHBROOK (collectively, "PLAINTIFFS")), WITNESSETH.

**RECITALS**

WHEREAS, RETAILER is identified as a party to a written non-brokered economic development agreement ("Direct EDA") with the City of Kankakee in Count IV, V, VI or VII of the Sixth Amended Complaint in 2011 CH 29744 in the Circuit Court of Cook County, Illinois, or Count IV, V or VI of the Third Amended Complaint in 2011 CH 34266 in the Circuit Court of Cook County, Illinois; and

WHEREAS, as part of the Settlement Agreement and Release between PLAINTIFFS and the City of Kankakee ("KANKAKEE") dated December \_\_, 2018, PLAINTIFFS have agreed to release RETAILER provided that RETAILER executes a reciprocal release of PLAINTIFFS.

NOW, THEREFORE, IT IS AGREED as follows:

**TERMS**

1. Release of the PLAINTIFFS – In consideration of the rights, obligations and other terms as stated in the Settlement Agreement and Release, RETAILER hereby fully and forever releases, remises, acquits and discharges PLAINTIFFS and their successors, affiliates, related entities, subsidiaries, guarantors, sureties, insurers, members, principals, agents, past and present employees, representatives, attorneys, assigns, heirs, executors, officers and directors (collectively, "PLAINTIFF RELEASED PARTIES") from any and all claims, actions, causes of action, suits, set-offs, contributions, counterclaims, damages, debts, costs, expenses, attorneys' fees or other fees whatsoever, based on any legal or equitable theory, right of action or otherwise, asserted or unasserted, foreseen or unforeseen, accrued or not accrued, which RETAILER now holds or may at any time own or hold against the PLAINTIFF RELEASED PARTIES by reason of any acts, circumstances, facts, events or transactions relating to the Direct EDA, as well as the activities of KANKAKEE directly or indirectly as a result of the Direct EDA. Nothing herein shall be construed to release the PLAINTIFFS from any obligations under this Agreement. As additional consideration and as a condition precedent for the release set forth in this paragraph, each PLAINTIFF shall execute the Settlement Agreement and Release between PLAINTIFFS and the City of Kankakee ("KANKAKEE") dated December \_\_, 2018, which includes the following release of RETAILER:

10. Release of the RETAILERS – In consideration for the above-described payment and the other consideration set forth herein, the PLAINTIFFS hereby fully and forever release, remise, acquit and discharge, the RETAILERS identified in Counts IV, V, VI and VII of the Sixth Amended Complaint in 2011 CH 29744 or Counts IV, V and VI of

the Third Amended Complaint in 2011 CH 34266, as well as their successors, affiliates, related entities, subsidiaries, guarantors, sureties, insurers, members, principals, agents, past and present employees, representatives, attorneys, assigns, heirs, executors, officers and directors (the "RELEASED RETAILERS") from any and all claims, actions, causes of action, suits, set-offs, contributions, counterclaims, damages, debts, costs, expenses, attorneys' fees or other fees whatsoever, based on any legal or equitable theory, right of action or otherwise, asserted or unasserted, foreseen or unforeseen, accrued or not accrued, which the PLAINTIFFS now hold or may at any time own or hold against the RELEASED RETAILERS by reason of any acts, circumstances, facts, events or transactions occurring before the effective date of this Agreement governed by or implicating the KANKAKEE Direct EDAs including, but not limited to, any matters relating in any way to the Lawsuit. Nothing herein shall be construed to release the RELEASED RETAILERS from any obligations under this Agreement. As additional consideration and as a condition precedent for the release set forth in this paragraph, each RETAILER identified in Counts IV, V, VI and VII of the Sixth Amended Complaint in 2011 CH 29744 and Counts IV, V and VI of the Third Amended Complaint in 2011 CH 34266 shall execute and deliver to PLAINTIFFS a release of the PLAINTIFFS in the form attached as Exhibit B within seven (7) days of execution of this Agreement. The release set forth in this paragraph shall not apply to any person or entity for which a release of the PLAINTIFFS in the form attached as Exhibit B has not been executed and delivered to PLAINTIFFS within seven (7) days of execution of this Agreement.

The release set forth in this paragraph shall not apply to any PLAINTIFF that has not executed the Settlement Agreement and Release between PLAINTIFFS and the City of Kankakee ("KANKAKEE") dated December \_\_, 2018, which includes the foregoing release of RETAILER.

2. RETAILER agrees that the terms of this Release are contractual and that any dispute as to its interpretation shall be interpreted in accordance with the laws of the State of Illinois, without reference to principles of choice or conflict of laws.
3. RETAILER agrees that any dispute regarding or arising out of this Release must be brought and heard in the Circuit Court of Cook County, Illinois and the parties hereby consent to the venue and exercise of jurisdiction over them by such courts.

IN WITNESS WHEREOF, the undersigned have executed and delivered this Release Agreement as the date first above written.

RETAILER: \_\_\_\_\_

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

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



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. 2019-R-040, **“A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT AND RELEASE BETWEEN THE REGIONAL TRANSPORTATION AUTHORITY (RTA); COUNTY OF COOK; VILLAGE OF FOREST VIEW; VILLAGE OF TINLEY PARK; VILLAGE OF LEMONT; VILLAGE OF ORLAND PARK; ELK GROVE VILLAGE; VILLAGE OF MELROSE PARK; VILLAGE OF HAZEL CREST; VILLAGE OF NORTH BROOK AND PLAINTIFFS AND THE CITY OF KANKAKEE AS DEFENDANT RELATIVE TO COOK COUNTY CONSOLIDATED CASES 2011 CH 29744 AND 2011 CH 34266 INVOLVING THE MATTER OF SOURCING AND REPORTING OF SALES TAXES,”** which was adopted by the President and Board of Trustees of the Village of Tinley Park on May 21, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Tinley Park this 21<sup>st</sup> day of May, 2019.

  
VILLAGE CLERK