

SETTLEMENT AGREEMENT

This Agreement is between CVS Pharmacy Inc. ("CVS"), a corporation organized and existing under the laws of the State of Delaware and registered and authorized to conduct business in the State of Wisconsin, and the City of Appleton, Wisconsin (the "City"), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

(a) The "Property" means the land and improvements located at 700 West Wisconsin Avenue within the City.

(b) "Cases" mean the actions pending in the circuit court for Outagamie County, Wisconsin titled *CVS Pharmacy, Inc. v. City of Appleton*, Case No. 15-CV-602 (2014) and 16-CV-634 (2015) and 16-CV-635 (2016).

(c) "Court" means the Circuit Court for Outagamie County.

(d) A "tax year" means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Refund of Taxes. The City shall issue a refund payable to Attorney Robert Hill Trust Account, or to another account designated by CVS in writing, pursuant to Wis. Stat. § 74.37, in the amount of \$52,472.23 for 2014, \$52,858.57 for 2015, and \$52,235.46 for 2016 for a total of \$157,566.26 as a refund of property taxes previously paid by or billed to CVS based on the property tax assessments of the Property for the tax years 2014, 2015 and 2016. The parties agree that no portion of this amount constitutes interest and no interest is owed.

3. Waiver of Costs. Each party waives all claims for costs.

4. Time of Payments. The City shall pay the refund of taxes for the 2014, 2015 and 2016 tax years in full, as provided in Section 2 of this Agreement, within 60 days of the date this Agreement is signed by both parties.

5. Stipulation for Dismissal. No later than ten days after CVS receives payment in full of the refund of taxes provided in section 2 of this Agreement, the parties shall (a) enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Cases (including, but not limited to, all claims asserted in the Complaints in the Cases) on the merits, with prejudice, and without costs to either party; and (b) file the stipulation with the Court.

6. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall be solely responsible for the fees of its attorneys and experts.

7. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or

implied.

8. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.

9. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.

10. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.

11. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.

12. No Assignment or Transfer. CVS represents and warrants that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.

13. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.

14. Use of this Agreement. This Agreement shall not be filed with the Court in the Cases or used in any other case or proceeding for any purpose whatsoever, except for the purpose of enforcing this Agreement. This Agreement and any part of this Agreement shall not be admissible in any lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party hereto in any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

15. No Admissions of Liability or Concerning Assessments or Fair Market Value. This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to CVS for any of the claims asserted in the Cases or CVS' objections to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Property as of January 1, 2014, January 1, 2015 and January 1, 2016 or any other date nor any other admission concerning the assessment of CVS property. In addition, none of the agreed upon values or

assessments as of January 1, 2014, January 1, 2015 and January 1, 2016 shall be admissible in any proceeding or assessment challenge in any subsequent year.

16. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

17. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

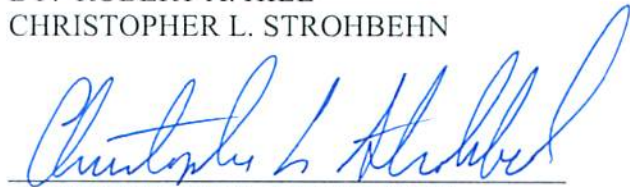
18. Authorization to Sign Agreement. Each person signing this Agreement on behalf of either party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

19. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

Dated: February 16, 2017.

CVS PHARMACY, INC.

BY: ROBERT A. HILL
CHRISTOPHER L. STROHBEHN

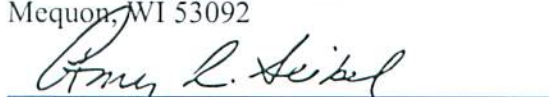


CHRISTOPHER L. STROHBEHN
State Bar ID 1041495

Dated: February 13, 2017.

APPROVED AS TO FORM

BY: Seibel Law Offices, LLC
11518 North Port Washington Road, Suite 103
Mequon, WI 53092



Amy R. Seibel
State Bar ID No. 1006166

Dated: _____, 2017.

CITY OF APPLETON

By:

Mayor Timothy Hanna

By:
