



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

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TRANSMITTAL LETTER FOR BOARD MEETING OF NOVEMBER 19, 2020

COMMITTEE ON JUDICIARY

Mr. Brian A. Perkovich, Executive Director

Authorization to negotiate and enter into a settlement agreement with Transform Holdco LLC, Transform SR Holding Management, LLC, TF Hoffman Estates IL, LLC, and Transform SR LLC in the lawsuit *Community Unit School District 300, et al. v. Village of Hoffman Estates, et al.* Circuit Court of Cook County Case No. 18-CH-12683, in an amount of \$322,363.00

Dear Sir:

In 1989, Illinois passed the Economic Development and Tax Increment Allocation Act ("EDA"), to incentivize Sears Roebuck & Co. ("Sears") to remain in Illinois and relocate its corporate headquarters from Chicago to the Village of Hoffman Estates ("Hoffman Estates"). The EDA diverted property tax revenue from seventeen taxing bodies, including the District, to Hoffman Estates for distribution to Sears as a property tax rebate. The EDA required Sears to maintain 4,250 full-time equivalent jobs in Hoffman Estates. The EDA was set to expire in 2012 but was extended until 2027.

In October 2018, Community Unit School District 300 filed a lawsuit against Hoffman Estates, Sears and other taxing bodies alleging that Sears failed to meet the EDA's requirements (the "Litigation"). The Litigation sought to recover all tax revenue that was improperly rebated to Sears since 2013. Almost immediately after the Litigation commenced, Sears filed for Chapter 11 Bankruptcy. In December 2019, the District filed its appearance and is now a co-plaintiff in the Litigation along with seven other taxing bodies. The remaining taxing bodies that were affected by the EDA are either adverse defendants in the Litigation, have disbanded, or have decided not to seek relief at this time.

In 2020, the District hired the law firm of Robbins Schwarz to represent the District in the Litigation. The Board was informed of this firm's retention for an amount not to exceed \$9,900.00 in a June 5, 2020 memorandum. Robbins Schwarz now represents all plaintiffs in the Litigation and has reached a partial proposed settlement.

Under the proposed settlement, the plaintiffs will recover \$5,637,029.00 from several Sears successor entities, which includes a portion of the tax rebate Sears received for the 2018 and 2019 tax years and a disbursement of the tax revenue due plaintiffs for the 2019 tax year. Sears received approximately \$6,800,000.00 in property tax rebates in the 2018 and 2019 tax years. Under the proposed settlement, the District would receive \$322,363.00, or approximately 6% of the total settlement. A six percent (6%) share for the District of the total settlement is consistent with the annual percentage of property tax proceeds typically received.

It is the General Counsel's opinion that this proposed settlement is in the District's best interest and that a better result would not obtain if the District proceeded to trial on these claims. The proposed settlement allows for a prompt recovery of a significant portion of the tax revenue sought in the Litigation, which could otherwise take years to recover. Eventually, it will enable the taxing bodies to receive approximately \$3,600,000.00 annually in property taxes that now go to Hoffman Estates under the EDA. Moreover, the Board's authorization of this proposed settlement does not eliminate the District's pending claims seeking recovery of

improperly rebated funds for tax years 2013 through 2017. Staff will seek Board authorization for any settlement of these remaining claims.

It is hereby recommended that the Board of Commissioners authorize the General Counsel to negotiate and enter into a settlement agreement with Transform Holdco LLC, Transform SR Holding Management, LLC, TF Hoffman Estates IL, LLC, and Transform SR LLC in the lawsuit *Community Unit School District 300, et al. v. Village of Hoffman Estates, et al.* Circuit Court of Cook County Case No. 18-CH-12683, in an amount of \$322,363.00, and authorize the General Counsel to execute all other documents necessary in furtherance thereof.

Requested, Susan T. Morakalis, General Counsel, JTM:ASN:nl

Recommended, Brian A. Perkovich, Executive Director

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for November 19, 2020