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## TOWN OF WEST SENECA

TOWN SUPERVISOR  
SHEILA M. MEEGAN  
TOWN COUNCIL  
EUGENE P. HART  
WILLIAM P. HANLEY, JR.

TO: The Honorable Town Board

FROM: John J. Fenz, Esq.  
Town Attorney

DATE: May 22, 2015

RE: In the Matter of the Application of Advance Auto Parts, Inc. v.  
Town of West Seneca  
Request for Authority to Execute Settlement

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Kindly approve settlement of the above-referenced matter and authorize the Town Attorney to execute the attached Consent Order to conclude the real property tax assessment challenge litigation between Advance Auto Parts, Inc. and the Town of West Seneca.

This matter involves an application for a reduction of an assessment by an owner of commercial property in the Town, located at 1180 Union Road. The Town's initial appraised value of the property was \$450,000.00 and Advance Auto Parts, Inc. claimed \$45,000 assessed value in its Petition. Following conversations with opposing counsel, settlement was negotiated setting the assessed value at \$405,000.00 and Advance Auto Parts, Inc. is not entitled to overpayment refunds.

Successful defense of this litigation has likely maintained thousands of dollars in real property tax revenue for the Town.

JUN 01 2015

At a Special Term of the Supreme Court, Erie County,  
held at 25 Delaware Avenue, Buffalo, New York, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

PRESENT: HON. SHEILA A. DITULLIO, A.J.S.C.  
Presiding

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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IN THE MATTER OF THE APPLICATION UNDER  
ARTICLE 7 OF THE REAL PROPERTY TAX LAW

BY

ADVANCE AUTO PARTS, INC.,

Petitioner,

v.

TOWN OF WEST SENECA

**CONSENT ORDER**

Index No.: 801268/2013

Index No.: 8074172014

Respondent,

AND

WEST SENECA CENTRAL SCHOOL DISTRICT

AND

COUNTY OF ERIE

Intervenors.

FOR REVIEW OF THE 2014-2015 TAX ASSESSMENT OF CERTAIN  
REAL PROPERTY IN THE SAID TOWN OF WEST SENECA, NEW YORK

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The above-entitled special proceedings involving real property tax certiorari for the premises owned by Petitioner in the Town of West Seneca, New York, known as 1180 Union Road, West Seneca, New York, S.B.L. # 134.20-9-17.11 for the tax year 2013-2014 and 2014-2015 having progressed for trial, and negotiations for settlement having been conducted, and

said settlement having been approved and recommended by the Attorney for the Town of West Seneca, Attorney for the West Seneca Central School District, Attorney for the County of Erie and the Attorney for Petitioner, and it further appearing that the assessment of premises in the Town of West Seneca provides the basis for the imposition of ad valorem taxes assessed by the County of Erie, Town of West Seneca and the West Seneca Central School District, it is hereby

**ORDERED, STIPULATED, AND ADJUDGED** that the real property tax assessment for the tax year 2013-2014 for the premises at 1180 Union Road, West Seneca, New York be set at Four Hundred and Five Thousand Dollars (\$405,000.00) and it is further

**ORDERED, STIPULATED, AND ADJUDGED** that the real property tax assessment for the tax year 2014-2015 for the premises at 1180 Union Road, West Seneca, New York be set at Four Hundred and Five Thousand Dollars (\$405,000.00) and it is further

**ORDERED, STIPULATED, AND ADJUDGED** that the provisions of Section 727 of the Real Property Tax Law shall apply for the next four consecutive assessment rolls, (2015-2016, 2016-2017, 2017-2018 and 2018-2019) and it is further

**ORDERED, STIPULATED, AND ADJUDGED** that said Petitioner in any instrument or agreement transferring any part or all of the subject property or any interest therein shall covenant with any grantee, transferee, and mortgagee and their respective distributees, successors and/or assigns that they shall be bound by the terms of this Consent Order and that such covenant shall be deemed to run with the land for the tax periods embraced by the terms thereof, and it is further

**ORDERED, STIPULATED, AND ADJUDGED** that the fiscal officers of Erie County, the Town of West Seneca, as affected by the above assessment reductions shall issue adjusted tax bill for the 2015 Town and County Tax based upon this Consent Order, and it is further

**ORDERED, STIPULATED AND ADJUDGED** Petitioner shall waive any and all 2013-2014 and 2014-2015 property tax refunds from the Town of West Seneca, the West Seneca Central School District and the County of Erie for taxes which have been previously paid.

**ORDERED, STIPULATED, AND ADJUDGED** that this Court shall retain jurisdiction over this proceeding pending the expiration of the periods herein recited, and that all applications to enforce any or all of the terms of this Consent Order shall be brought by motion before this Court, and it is further

**ORDERED, STIPULATED, AND ADJUDGED** that Petitioner shall have the right to seek specific enforcement of this Order, Stipulation and Judgment by all means provided by law, and it is further

**ORDERED, STIPULATED, AND ADJUDGED** that this Order, Stipulation and Judgment hereby constitutes and represents the entire understanding and agreement amongst the parties, and the full settlement of the tax certiorari herein; there are no costs or disbursements awarded to, by or against any party, and upon compliance with the terms of this Order, Stipulation and Judgment, the proceedings herein shall be, and the same hereby are, settled and discontinued

The parties consent to be bound by the terms of this Court Order by subscribing hereunto their names and legal authority:

**FOR PETITIONER  
ADVANCE AUTO PARTS, INC.,**

**PETITIONER  
ADVANCE AUTO PARTS, INC.,**

By: \_\_\_\_\_  
RAYMOND J. FUREY, ESQ.  
Attorney for Petitioner

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

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

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

**FOR RESPONDENT  
TOWN OF WEST SENECA**

**FOR RESPONDENT,  
TOWN OF WEST SENECA**

By: \_\_\_\_\_  
RICHARD H. COLE, ESQ.  
Attorney for Respondent

By: \_\_\_\_\_  
JOHN J. FENZ, ESQ., Town Attorney.  
Attorney for Respondent

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

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

**FOR INTERVENOR, WEST SENECA  
CENTRAL SCHOOL DISTRICT**

**INTERVENOR, WEST SENECA  
CENTRAL SCHOOL DISTRICT**

By: J. Ryan White  
J. RYAN WHITE, ESQ.

By: Janice Lewandowski  
JANICE LEWANDOWSKI  
Asst. Manager Financial and Computer  
Services.

Date: 4/21/2015

Date: 4/16/15

**FOR INTERVENOR, COUNTY OF ERIE**

By: Sean McDermott  
SEAN McDERMOTT

Date: 4/30/2015