

RESOLUTION NO. 1605

RESOLUTION APPROVING A SETTLEMENT AND TERMINATION  
AGREEMENT WITH PROCTER & GAMBLE HAIR CARE LLC

WHEREAS, the City of West Branch has previously entered into a Tax Increment Development Agreement dated April 17, 2007 (the "Phase 3 Development Agreement") with Procter & Gamble Hair Care, LLC ("P&G") for certain redevelopment, renovation, and improvements for the "Project" in the "Project Area" as defined in the Development Agreement, and the City of West Branch agreed to provide tax increment payments to P&G; and

WHEREAS, the City of West Branch and P&G have determined it to be in their best interests to terminate the Phase 3 Development Agreement; and

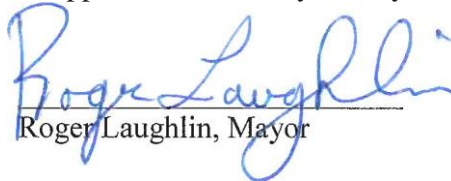
WHEREAS, P&G has reviewed and is in agreement with the Settlement and Termination Agreement; and

WHEREAS, the West Branch City Attorney has reviewed the Settlement and Termination Agreement with P&G for the consideration of the West Branch City Council; and

WHEREAS, it is now necessary to approve said Settlement and Termination Agreement

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned agreement concerning right of first refusal with P&G is hereby approved.

Passed and approved this 1st day of May, 2017.

  
\_\_\_\_\_  
Roger Laughlin, Mayor

ATTEST:

  
\_\_\_\_\_  
Gordon Edgar, Deputy City Clerk

## SETTLEMENT AND TERMINATION AGREEMENT

THIS SETTLEMENT AND TERMINATION AGREEMENT ("Settlement and Termination Agreement") is entered into by and among the City of West Branch, Iowa (the "City") and Procter & Gamble Hair Care LLC ("P&G") as of the 15<sup>th</sup> day of May, 2017.

WHEREAS, the City, pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the West Branch Urban Renewal Project Area (the "Urban Renewal Area"); and

WHEREAS, the City has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa (the "Urban Renewal Tax Increment Fund"), which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, the City previously authorized and entered into a Tax Increment Development Agreement dated April 17, 2007 (the "Phase 3 Development Agreement") attached hereto as Exhibit A with P&G, pursuant to which P&G agreed to undertake certain redevelopment, renovation and improvements for the "Project" in a "Project Area" (each as defined in the Development Agreement), and the City agreed to provide tax increment payments to P&G; and

WHEREAS, the City and P&G have determined it to be in their mutual best interests to settle and terminate the Phase 3 Development Agreement; and

WHEREAS, this Settlement and Termination Agreement has been prepared to provide for the final termination of the Phase 3 Development Agreement and to set forth conditions precedent to such termination;

NOW, THEREFORE, the parties hereto, intending to be legally bound, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows:

1. In consideration for the releases as set forth herein, the Phase 3 Development Agreement shall terminate effective on July 1, 2018 (the "Termination Date").
2. The City and P&G hereby each mutually release and discharge each other from any ongoing obligations and liabilities under the Phase 3 Development Agreement as of and after the Termination Date. The City and P&G also hereby each mutually release and discharge each other from any and all claims, liabilities, obligations, demands or causes of action, known or unknown, fixed or contingent, existing as of the Termination Date, which they may have or claim to have against one another for breach of contract based on the Phase 3 Development Agreement or by virtue of any other legal or equitable claim or theory arising out of, relating

to or accruing from the Phase 3 Development Agreement. The releases and discharges contemplated herein shall not apply to a breach of this Settlement and Termination Agreement.

3. This Settlement and Termination Agreement constitutes the entire understanding of the parties hereto with respect to the obligations contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof. No representations, warranties, undertakings or promises, whether oral, implied, written or otherwise, have been made by any party to the other unless expressly stated in this Settlement and Termination Agreement or unless mutually agreed to in writing between the parties thereto after the date hereof, and no party has relied upon any verbal representations, agreements or understandings not expressly set forth herein.
4. This Settlement and Termination Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one in the same. This Settlement and Termination Agreement shall be deemed fully executed and effective when all parties have executed at least one of the counterparts, even though no single counterpart bears all such signatures.
5. Facsimile copies of this Settlement and Termination Agreement and the signatures hereto may be used with the same force and effect as the original.

IN WITNESS WHEREOF, the parties hereto have executed this Settlement and Termination Agreement as of the date first written above.

CITY OF WEST BRANCH, IOWA, an Iowa  
municipal corporation

By \_\_\_\_\_  
Mayor

*Bogge Laughlin*

Attest:

By \_\_\_\_\_  
City Clerk

*DEPUTY*

*Gordon R Edger*

PROCTER & GAMBLE HAIR CARE LLC

By \_\_\_\_\_

*BK Banke*

**BRIAN K. BANKE  
ASSOCIATE DIRECTOR**

**Exhibit A**

[Attach Phase 3 Development Agreement]