

SETTLEMENT AND MUTUAL RELEASE AGREEMENT

This Settlement and Mutual Release Agreement is made and entered into by *Fort Bend County* and *Penske Truck Leasing Co.*, and *Rollins Leasing, LLC*.

DEFINITIONS

1. "Fort Bend County" means Fort Bend County, Texas, including the Fort Bend County Toll Road Authority.
2. "Penske" means Penske Truck Leasing Co., L.P. and all of its past, present and future, direct and indirect, employees, predecessors, successors, assigns, agents, representatives, officers, directors, affiliates, parents, subsidiaries, distributors, sellers, insurers, law firms and attorneys.
3. "Rollins" means Rollins Leasing LLC and all of its past, present and future, direct and indirect, employees, predecessors, successors, assigns, agents, representatives, officers, directors, affiliates, parents, subsidiaries, distributors, sellers, insurers, law firms and attorneys.
4. "Parties" means Fort Bend County, Penske, and Rollins.
5. "Claims" means Fort Bend County's claims, suits, charges, causes of action, losses, judgments of any type against Penske or Rollins arising out of alleged toll road violations occurring before **April 1, 2014**.
6. "Agreement" means this Settlement and Mutual Release Agreement, which constitutes the full and final settlement of the Claims and defenses by and between the parties.
7. The "Consideration" means the payment of \$3,314.35 by Penske and Rollins to Fort Bend County, all of the promises, agreements, and representations, terms and provisions hereof, including but not limited to, the payments herein described; the agreements and covenants herein; and, other good and valuable consideration received by each of the below signed parties, the receipt and sufficiency of which consideration is hereby agreed, acknowledged, admitted and stipulated by Fort Bend County, all of which is set forth in this Agreement.

RECITALS

1. Fort Bend County has sought payment from Penske and Rollins for alleged toll road violations committed by users and lessees of Penske and Rollin's vehicles.

2. The Parties desire to resolve all disputes which are asserted and could have been asserted by and between them related to the subject matter hereof and to avoid the additional time, expense, and uncertainty of litigation.

TERMS AND CONDITIONS

For and in consideration of the payments, the mutual covenants, Consideration, and conditions contained herein, the receipt and sufficiency of which are hereby acknowledge and confessed, the Parties agree as follows:

COVENANTS

1. **Payment and Dismissal of Claims.** Penske agrees to pay to Fort Bend County \$3,314.35. In consideration, Fort Bend County shall dismiss the Claims with prejudice to the rights of Fort Bend County to refile same or any part thereof against Penske and Rollins, for all of Penske and Roillin's alleged violations committed prior to **April 1, 2014**. Penske and Rollins represent and warrant that they will not be billing the settlement amount, in whole or in part, back to Penske or Rollins customers. The Parties further agree that all attorneys' fees and costs incurred shall be borne by the Party incurring same.
3. **Release of Claims and Covenant Not to Sue.** Upon execution of this Agreement and in consideration for the mutual promises and covenants, consideration and conditions set forth herein, Fort Bend County unconditionally **RELEASES, ACQUITS, AND FOREVER DISCHARGES** Penske and Rollins from the Claims, and Fort Bend County covenants not to sue Penske and Rollins in connection with the Claims.
5. **Voluntary Agreement.** The Parties acknowledge that each has had an opportunity to consult with their respective attorneys concerning the meaning, import, and legal significance of this Agreement, and each has read this Agreement, as signified by their signatures hereto, and are voluntarily executing the same after advice of counsel for the purposes and consideration herein expressed.
6. **Representations and Warrants of Authority.** The Parties represent and warrant (1) that they are represented by counsel in entering this Agreement; (2) that the signators to this Agreement have full legal right, power, and authority to execute this Agreement; (3) that they have read the above and foregoing Agreement; and (4) that they are not relying on any representations not contained herein. Each Party hereby states that it is making this settlement and executing this release solely of its own judgment.
7. **No Assignment of Claims.** Fort Bend County represents and warrants that it is the full and sole owners of the Claims and that it has not assigned, transferred or purported to assign or transfer any of the Claims, (excepting only the assignment or transfer of such claims to their attorneys). Penske and Rollins represent and warrant that Penske and Rollins are the full and sole owners of the claims, demands, actions, or

causes of action referred to in this Agreement at the time of the execution of this Agreement and that Penske and Rollins have not assigned, transferred or purported to assign or transfer any of the claims, actions or liabilities released hereinabove in the Release of Claims and Covenant Not to Sue paragraphs of this Agreement.

8. **No Admission.** Nothing contained herein shall be deemed to be, or construed as, an admission of liability by Penske and Rollins with respect to the claims and subject matter of the Claims or otherwise. Rather, this Agreement is made in good faith and in order to reasonably and conclusively resolve the disputed issues and claims between the Parties in view of the inherent uncertainty, expense, and trouble of litigation.

9. **Attorneys' Fees.** Each Party shall bear its own attorneys' fees and costs arising from the Claims, this Agreement, the matters and documents referred to herein, and all related matters.

10. **Choice of Law and Venue.** This Agreement is governed by and shall be construed in accordance with the laws of the State of Texas. Further, this Agreement is performable in Fort Bend County, Texas.

11. **Jointly Drafted.** This Agreement has been reviewed by the respective counsel for each of the Parties and approved as to form and content. Accordingly, this Agreement shall be deemed to have been jointly drafted by the Parties for the purposes of applying any rule of construction to the effect that ambiguities are to be construed against the draftsman.

12. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and to their respective representatives, successors and assigns.

13. **Copies.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

14. **Headings.** The headings and subsections of this Agreement are inserted for convenience only and shall not control or affect the meaning, construction, or effect of this Agreement, or any of its provisions hereof.

15. **Entire Agreement.** This Agreement sets forth the entire understandings of the Parties concerning the subject matter hereof and supersedes any prior agreements, if any, made between the Parties relative to such subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. This Agreement and any of its terms may be amended, modified, or waived only by a writing signed by the Parties.

16. **Contractual Matters.** The statements and representations contained herein are considered contractual in nature and not merely recitations of fact.

Executed by the Parties on the dates of their respective acknowledgments, but to be effective as of the 28th day of July, 2014. 5

FORT BEND COUNTY:

APPROVED AS TO FORM:
ROY CORDES, County Attorney

By Marcus D. Spencer
MARCUS SPENCER
Assistant County Attorney

FORT BEND COUNTY

By Robert E. Hebert
ROBERT E. HEBERT, County Judge

PENSKE AND ROLLINS:

By Richard S. Harris

NAME: Richard S. Harris

TITLE: V.A. Operating Tax

October 14 2014
Date