

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
**LINDA ULISS BURKE**  
**VINCENT D. MOSCHELLA**  
Deputy City Attorneys



**THOMAS O. GARTNER**  
**BRUCE D. SCHRIMPF**  
**SUSAN D. BICKERT**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOREN**  
**JOHN J. HEINEN**  
**DAVID J. STANOSZ**  
**SUSAN E. LAPPEN**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**MELANIE R. SWANK**  
**JAY A. UNORA**  
**DONALD L. SCHRIEFER**  
**EDWARD M. EHRlich**  
**LEONARD A. TOKUS**  
**MIRIAM R. HORWITZ**  
**MARYNELL REGAN**  
**G. O'SULLIVAN-CROWLEY**  
**KATHRYN Z. BLOCK**  
**MEGAN T. CRUMP**  
**ELOISA DE LEÓN**  
**ADAM B. STEPHENS**  
**KEVIN P. SULLIVAN**  
**BETH CONRADSON CLEARY**  
**THOMAS D. MILLER**  
**HEIDI E. GALVÁN**  
**JARELY M. RUIZ**  
**ROBIN A. PEDERSON**  
**DANIELLE M. BERGNER**  
Assistant City Attorneys

February 4, 2009

Mr. Ronald D. Leonhardt, City Clerk  
City Clerk's Office  
Room 205, City Hall

Re: Resolution approving the transfer of money from the contingent fund to the remission of taxes fund and approving and authorizing the execution of a settlement agreement for real estate and personal property taxes in the matter of In Re Tower Automotive Inc. for property located at 3533 N. 27<sup>th</sup> Street.

Dear Mr. Leonhardt:

Enclosed for your consideration is a resolution approving and authorizing the execution of a settlement agreement in the matter of In Re Tower Automotive, Inc.

On or about December 23, 2004, Tower Automotive Inc., ("hereinafter Tower") sold a part of the property located at 3533 N. 27<sup>th</sup> Street to 35<sup>th</sup> Street Real Estate Holdings, LLC. Subsequently, the City purchased this property from 35<sup>th</sup> Street Real Estate Holdings, LLC in January 2006.

On February 5, 2005, Tower filed for Chapter 11 Bankruptcy protection in the Southern District of New York. The City retained the law firm of Tarter, Krinsky, & Drogin, LLP based in New York to represent us in this matter. As customary, once the City received notice that Tower filed bankruptcy, the City filed a claim in Bankruptcy Court to preserve its ability to collect personal and real estate taxes.

As it relates to the personal property taxes, the City submitted a claim for \$181,427.59 for tax levy years 2004-2006. However, Tower should not have had

personal property taxes accruing for the 2005 and 2006 levy years as the operations had been discontinued and the property was sold in a series of transactions and various City departments were involved and/or notified of the sales. Therefore, the only collectible year that the City could pursue is for personal property taxes for the 2004 levy year which totaled \$108, 101.98. The Bankruptcy Trustee in the Tower case has offered to pay the City \$106, 504.42. This figure represents the amount the principal amount of personal property taxes due and excludes the interest and penalties. In bankruptcy, interest and penalties are classified as general unsecured claims. Therefore, although the City could attempt to collect the interest and penalties, the likelihood that the City would recover the interest and penalties is very small given the nature of the bankruptcy case and the amount of creditors.

As it relates to the real estate taxes for the above referenced location, the City submitted a claim in the amount of \$172, 744.23 for the 2004 tax levy year. The Trustee in this case has offered to pay the City \$ 170,191.36. This figure represents the amount of principal and excludes the interest and penalties as they would also be classified as general unsecured claims.

In summary, the Trustee is offering the City \$ 276, 695.78 for complete settlement of the City's claim for \$280,846.21 (once the personal property taxes for 2005 and 2006 have been removed due to notice of the sales). Because, the cost of attorneys fees and litigation far outweigh difference between what is owed and what is offered, we believe that it is in the best interest of the City to accept this offer and it is recommended that the remaining principal, delinquent interest, penalties, fees, and costs be cancelled.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

THOMAS O. GARTNER  
Assistant City Attorney

MEGAN T. CRUMP  
Assistant City Attorney

MTC:mc:141410

Enclosure

c: Mr. Jim Klajbor  
Ms. Linda Roth esq.

1060-2005-1262/142241