

SETTLEMENT AGREEMENT

The Parties to this Settlement Agreement ("Agreement") are the City of Milwaukee ("City") and U.S. Venture, Inc., formerly known as U.S. Oil Company, Inc. ("U.S. Venture").

RECITATIONS

WHEREAS, the U.S. Venture and the City are involved in a lawsuit in Milwaukee County Circuit Court captioned *U.S. Venture, Inc. v. City of Milwaukee*, Case No. 2009CV9693 ("the Lawsuit"); and

WHEREAS, the Lawsuit involves U.S. Venture's challenges to the City's property tax assessments for tax years 2006, 2007 and 2008 relating to the parcels located at 9520 N. 107th Street, Milwaukee, Wisconsin, Tax Key No. 002-0071-000, 9401 N. 107th Street, Milwaukee, Wisconsin, Tax Key No. 002-9993-000 and 9201 N. 107th Street, Milwaukee, Wisconsin, Tax Key No. 002-9996-110 (the "Properties"); and

WHEREAS, U.S. Venture and the City desire to enter into this Agreement in order to fully and completely resolve the issues related to the City's 2006 and 2007 assessments of the Properties, but not the 2008 assessment; and

WHEREAS, U.S. Venture and the City understand this settlement is intended to accomplish a full, complete and final resolution of the 2006 and 2007 property tax assessment dispute, subject to the terms and limitations contained in this Agreement;

NOW, THEREFORE, in consideration of the above Recitations, which are hereby acknowledged to be true and correct and made a part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

ARTICLE I **Settlement Terms**

- 1.1 **2006 and 2007 Property Tax Payments.** U.S. Venture paid its 2006 property tax to the City for the Properties in the amount of \$330,321.63 on December 20, 2006 and filed its refund claim on January 31, 2007. U.S. Venture paid its 2007 property tax to the City for the Properties in the amount of \$340,970.68 on January 9, 2008 and filed its refund claim on January 31, 2008.
- 1.2 **Agreed-Upon Assessments.** To settle the 2006 and 2007 assessment challenges, the City and U.S. Venture agree that the Properties will be assessed at the values shown on the stipulations for each parcel attached to and incorporated into this Agreement, with the 2006 stipulations attached as Ex. A, and the 2007 stipulations attached as Ex. B.
- 1.3 **Property Tax Refund.** The agreed-upon assessments in paragraph 1.2 result in a property tax refund owed by the City to U.S. Venture in the amount of \$78,341.30 for 2006 and

\$80,847.14 for 2007. Interest at the statutory rate of 9.6% per annum on those amounts from the date of payment to June 30, 2011 is \$33,216.71 for 2006 and \$26,517.86 for 2007. This means the City owes a total property tax refund to U.S. Venture for 2006 in the amount of \$111,558.01 and for 2007 in the amount of \$107,365.

- 1.4 Payment. The City agrees to pay U.S. Venture the amount of \$218,923.01 on or before June 30, 2011. In the event the City pays U.S. Venture before June 30, 2011, the interest accruing on the payment will be reduced accordingly.
- 1.5 Withdrawal of Claims. Once payment is received from the City, U.S. Venture and the City will file a Stipulation and Order for Dismissal to dismiss with prejudice the 2006 and 2007 tax challenges pending in the Lawsuit. The Stipulation and Order for Dismissal will not be filed with the Court until the City has given its final approval of the settlement and the settlement payment has been made to U.S. Venture.
- 1.6 No Binding Effect. The City and U.S. Venture agree that the execution of this Agreement and the attached Stipulations is not a binding admission of value by the City or by U.S. Venture for any purpose other than to accomplish the settlement of the 2006 and 2007 tax claims. The settlement of the 2006 and 2007 tax claims is solely for the purpose of compromising disputed claims in recognition of the uncertainty, cost and expense of litigation.
- 1.7 Reservation of the 2008 Assessment Challenge. This settlement does not affect the pending 2008 assessment challenge, which remains as a viable claim in the Lawsuit.
- 1.8 Contingency. This settlement is subject to the approval of the Milwaukee Common Council and the Mayor. If the Common Council and/or the Mayor do not approve this settlement, it is null and void, and the 2006 and 2007 claims will continue in the Lawsuit.

ARTICLE II Miscellaneous Provisions

- 2.1 Execution of the Agreement. This Agreement may be executed in any number of counterparts, all of which will constitute a single Agreement. This Agreement shall not be binding unless and until it is signed by each Party. The Agreement may be executed by facsimile or e-mail copy, and shall become binding upon the Parties once a fully signed copy has been exchanged.
- 2.2 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.
- 2.3 Fees and Costs of Enforcing This Agreement. Each Party shall be responsible for their own attorneys' fees and other expenses arising from the Lawsuit. In the event of a breach of this Agreement, the prevailing party shall be entitled to recover the attorney's fee and/or litigation expenses reasonably incurred to enforce this Agreement.

- 2.4 Warranty of Capacity to Execute Agreement. U.S. Venture and the City represent and warrant that no other person or entity has or had any interest in the claims, demands, obligations or causes of action released in this Agreement, and that each has the sole right and exclusive authority to execute this Agreement, whether individually or on behalf of a corporate Party. Each Party signing this Agreement personally warrants and represents that they are duly authorized to execute and enter this Agreement, and that this Agreement is fully enforceable in accordance with its terms.
- 2.5 Comprehension of the Agreement. Each Party represents that they have relied upon the legal advice of their attorneys, and that the terms of this Agreement have been completely read, are fully understood, and are voluntarily accepted by them.
- 2.6 Entire Agreement and Successors in Interest. This document contains the entire Agreement between the Parties with regard to the matters set forth herein, and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each Party.
- 2.7 Headings. The headings and the sections of this Agreement are inserted for convenience only and do not constitute a part hereof.
- 2.8 Additional Documents. All Parties agree to cooperate fully and execute any supplementary documents, including a Stipulation for the Dismissal of all claims in the Lawsuit, and to take any additional action which might be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

Date: 3-28-11

City of Milwaukee.
 By: *Ernest D. Woodell*
Deputy City Attorney

U.S. Venture, Inc.

Date: 3-29-11

By: *Marjorie Myoung*
General Counsel / ASST Secretary