

September 22, 2005

To the Honorable
Common Council of the
City of Milwaukee
Room 205 – City Hall

Re: Settlement of a Claim by the United States Environmental
Protection Agency against the City of Milwaukee

Dear Council Members:

The attached file concerns the settlement of a civil administrative proceeding that the United States Environmental Protection Agency (“USEPA”) has threatened to initiate and prosecute against the City of Milwaukee. This proceeding arises from a series of alleged violations committed by the City concerning management of underground storage tanks servicing the City’s vehicle fleets and other facilities. These alleged violations included failure to install an overfill prevention system on a new tank during installation, failure to prevent overfilling of a tank, and failure to monitor ten regulated underground storage tanks and associated piping for “release detection” at three separate City facilities. At the time that the USEPA originally threatened to initiate and prosecute this proceeding against the City (February 2003), it indicated that it would propose the imposition of a civil penalty in the amount of \$51,215.00.

It is important to note that at no time has the USEPA alleged actual leaks from the tanks, simply irregularities as to monitoring and preventative measures. As a result of the City’s investigation into the facts alleged, the City and USEPA representatives engaged in lengthy negotiations in an attempt to resolve this matter.

Eventually, the City was able to present a “Supplemental Environmental Project” proposal that fit USEPA guidelines in order to reduce the penalty, while providing a benefit to the City as well. This project consisted of the performance of Phase II environmental investigation and testing projects upon three separate properties located within the City with actual or suspected petroleum-related contamination and identified as potentially suitable for redevelopment. These include properties located at 603 East Locust Street, 4901-4907 West Fond du Lac Avenue, and 3105 North Richards Street. Following dissemination of the Requests for Proposals, the City has selected qualified environmental consulting firms to perform these Phase II projects at a total

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cost of \$55,020.00. For its part, the USEPA has agreed to reduce the amount of the civil administrative penalty payable by the City of Milwaukee to \$9,000.00 conditional upon satisfactory completion of the three Phase II projects comprising the total "Supplemental Environmental Project."

The terms of the proposed settlement between the City and the USEPA are embodied in a Consent Agreement and Final Order that has been made a part of this file. Accordingly, along with DPW and DCD, we believe that settlement of this proceeding in accordance with the terms and provisions of the attached Consent Agreement and Final Order would be in the best interests of the City of Milwaukee, and therefore recommend approval of the attached resolution to that effect.

Please contact this office if you have any further questions concerning this matter.

Very truly yours,

GRANT F. LANGLEY
City Attorney

LINDA ULISS BURKE
Deputy City Attorney

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Assistant City Attorney

SSM:lmb
enclosures
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