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September 10, 2008

Honorable Common Council  
City Hall, Room 205

Re: Resolution appropriating the transfer of money from the contingent fund to the remission of taxes fund and approving and authorizing the settlement of a real estate judgment located at 311 E. Greenfield Avenue against Golden Marina Causeway LLC for in personam liability for taxes in the amount of \$244,513.05 in exchange for the lesser amount of \$ \$101,936.51.

Dear Council Members:

Enclosed for your consideration is a resolution approving and authorizing a settlement of the judgment granted to the City against Golden Marina Causeway LLC ("hereinafter GMC") in the amount of \$244,513.05, for the lesser amount of \$101,936.51. The City, through the Kohn Law Firm, obtained a judgment against GMC for real estate taxes arising out of the above-referenced property for the 2006 levy year.

In 2005, the City assessed the value of the property at \$537,100. However, in that same year, GMC was attempting to sell the property for \$9.5 million. Hence, in 2006, the City reassessed the value of the property to \$9,290,400. GMC never objected to the newly assessed value of the property.

In January 2007, East Greenfield Investors LLC ("hereinafter EGI") purchased the entire membership interest in GMC (which included ownership of the property) for \$400,000. In addition, EGI purchased the \$3.7 million mortgage on the property for approximately \$2.5 million. By that time, it was too late to seek a review of the 2006 assessment. However, EGI/GMC asked for a review of the assessment of the property for the 2007 tax year. As a result, the property was reassessed to \$3,580,700. A formal post-judgment Supplementary Examination of GMC has confirmed that its only asset is the property at issue and that it is not currently producing any income, making enforcement of the judgment virtually impossible.

The compromise that EGI/GMC is seeking is with regard to the 2006 delinquent taxes during which time EGI/GMC claims that the property was wrongly assessed at a much higher value. Negotiations through the Kohn Law Firm and involving the offices of the City Treasurer, the City Attorney and the Department of City Development have resulted in a settlement proposal under which EGI/GMC would pay \$101,936.51 to settle the judgment for the 2006 taxes, which represents the amount that would currently be due, including full interest and penalties through July of 2008, if the 2006 assessment had been made at the same reduced value eventually arrived at for the 2007 assessment. In July of 2008, EGI/GMC paid the proposed \$101,936.51 to the Kohn Law Firm, to be held in escrow pending the Common Council's action in this matter. The 2007 taxes have been paid full.

The property at issue is contaminated, with current clean-up estimates running as well into the millions. The Department of City Development has confirmed that the property is contaminated and has placed the property on the City's "Do Not Acquire List." However, EGI/GMC is actively working to investigate, remediate, and redevelop the property so that it can be a beneficial asset to the City.

Therefore, in this case, it is in the best interests of the City to accept the \$101,936.51 as satisfaction of the judgment at issue and it is recommended that the remaining balance be cancelled.

Very truly yours,

GRANT F. LANGLEY  
City Attorney

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MTC:mc:136092

Enclosure

c: Mr. Jim Klajbor  
Mr. Robert Potrzebowski, Jr.  
Mr. Matt Haessly