

**SUMMARY REPORT TO THE CITY MANAGER**  
**For Council Meeting of September 12, 2005**

**SUBJECT:** Kmart Bankruptcy Settlement Agreement

**INITIATED BY:** City Attorney

**RESOLUTION**

**SUMMARY:** Authorize the City Attorney to enter into and execute an agreement with the Kmart Corporation for the settlement of personal property taxes in connection with a bankruptcy action.

**ITEMS**

- ATTACHED:**
1. Letter of Transmittal
  2. Proposed Agreement

**CITY COUNCIL**

**ACTION:** 3/5 vote required to approve resolution

**SUBMITTED BY:** James O. Branson III, City Attorney



City Hall • 333 West Ellsworth Street • Midland, Michigan 48640-5132 • 989.837.3300 • 989.835.2717 Fax • [www.midland-mi.org](http://www.midland-mi.org)

September 12, 2005

Honorable Mayor and City Council  
City Hall  
333 W. Ellsworth Street  
Midland, MI 48640

Dear Council Members:

On January 22, 2002 the Kmart Corporation, with property located at 1820 S. Saginaw Road in Midland, filed a voluntary petition in the United States Bankruptcy Court for the Northern District of Illinois for reorganization under Chapter 11. On March 18, 2002 the City of Midland filed a proof of claim in connection with this bankruptcy action for unpaid real and personal property taxes and outstanding water bills in a total amount of \$101,831.92. Since that time, Kmart has paid the outstanding real property taxes and has agreed to pay their outstanding water bills, leaving a current balance on the 2001 and 2002 personal property taxes, including interest and penalty, in the amount of \$36,280.56. Through negotiations and approval by the United States Bankruptcy Court, a settlement has been reached to satisfy the outstanding debt in the amount of \$20,952.93.

Attached for your review and consideration is a resolution authorizing the City Attorney to enter into and execute an agreement between the City of Midland and the Kmart Corporation for the settlement of the outstanding 2001 and 2002 delinquent personal property taxes.

Please feel free to contact my office should you have any questions.

Sincerely,

James O. Branson III  
City Attorney

JOB/ak



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BY COUNCILMAN

WHEREAS, on January 22, 2002 the Kmart (“Kmart”) Corporation filed a voluntary petition in the United States Bankruptcy Court for the Northern District of Illinois for reorganization under Chapter 11; and

WHEREAS, on March 18, 2002 the City of Midland filed a proof of claim in connection with this bankruptcy action for unpaid real and personal property taxes and outstanding water bills in a total amount of \$101,831.92; and

WHEREAS, since that filing Kmart has paid the outstanding real property taxes and has agreed to pay their outstanding water bills, leaving a current balance on the 2001 and 2002 personal property taxes, including interest and penalty, in the amount of \$36,280.56; and

WHEREAS, through negotiations and approval by the United States Bankruptcy Court, a settlement has been reached to satisfy the outstanding debt in the amount of \$20,952.93; now therefore

RESOLVED, that the City Attorney is hereby authorized to enter into and execute an agreement between the Kmart Corporation and the City of Midland for the settlement of the outstanding 2001 and 2002 personal property taxes in the amount of \$20,952.93.

YEAS:

NAYS:

ABSENT:

I, Selina Tisdale, City Clerk, City of Midland, Counties of Bay and Midland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by a yea vote of all of the Councilmen present at a regular meeting of the City Council held on Monday, September 12, 2005.

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Selina Tisdale, City Clerk