

**CITY COUNCIL COMMUNICATION 97-508
OCTOBER 6, 1997 AGENDA**

SUBJECT:

**APPROVING SETTLEMENT
AGREEMENT WITH
LEVY-MALONE & COMPANY**

SUBMITTED BY:

**JAMES GRANT
COMMUNITY DEVELOPMENT DIRECTOR**

SYNOPSIS –

Levy-Malone & Company was one of the condominium owners of the 100 Court Avenue Building. In April, 1986, the City made a UDAG loan to the company to assist in the development of the building. This loan is delinquent. A settlement has been proposed for Council consideration.

FISCAL IMPACT –

This UDAG loan was funded by a grant from the Federal government and not from the City General Fund.

RECOMMENDATION –

Adopt the roll call to approve the settlement agreement.

BACKGROUND –

In April, 1986, the City Council approved a loan to Levy-Malone & Company to assist with the renovation of the 100 Court Avenue Building. This loan was funded through a grant from the Federal government. The outstanding balance on the loan is presently \$137,917.

This loan was paid as agreed until the flood of 1993, when payments were interrupted for several months. Levy-Malone & Company resumed payments in 1994, but the company and an affiliated partnership were greatly affected by the flood damage to the building. They were not able to repair the lower level, cashflow suffered, and leasing became more difficult. Eventually, their

first mortgage to AmerUs was foreclosed and our mortgage security was extinguished. For a number of months, Economic Development and Legal staff have been working with the company on loan work-out. The loan is presently delinquent.

The City is now an unsecured creditor. The loan is guaranteed by Levy-Malone & Company. Over the course of time, Levy-Malone has invested approximately \$1.5 million in the building. The company is not now active in construction. It has some land holdings in several smaller Iowa communities. These parcels are valued at approximately \$40,000, but it is unclear when they might be developed, and it is unclear what their true liquidation value may be. The company has cash to make a \$75,000 settlement payment.

Staff recommends the settlement. Since the City is an unsecured creditor, it is not clear that pursuing legal action against the company would yield significant return compared with the time and cost, and may force the company into bankruptcy, at which time the City might actually receive less in settlement.