



# Council Communication

Office of the City Manager

Date

June 8, 2009

Agenda Item No. 19  
Roll Call No. 09-  
Communication No. 09-358  
Submitted by: **Jeb E. Brewer, P.E.,**  
City Engineer

## AGENDA HEADING:

Resolution Approving Settlement of Real Estate Contract and Accepting Real Estate Documents for Property Lying South of and Adjoining 826 S.E. 21<sup>st</sup> Street from Seidenfeld Incorporated.

## SYNOPSIS:

Recommend approval of settlement of real estate contract and acceptance of real estate documents for property lying south of and adjoining 826 S.E. 21<sup>st</sup> Street from Seidenfeld Incorporated, Richard Seidenfeld, President, formerly known as Seidenfeld & Son Iron & Metal, Inc. ("Seidenfeld Inc."). The purpose of the Settlement Agreement is to resolve outstanding conveyance and title issues associated with a Purchase Agreement for a real estate installment contract between Seidenfeld Inc. and the City, as approved in 1989. There is no current or anticipated public need for the property to be conveyed under the real estate installment contract.

## FISCAL IMPACT:

Amount: \$0 (The City will only incur minor recording costs to complete this transaction. Seidenfeld Inc. had previously paid \$43,542.42 in required contract payments, which fulfills the consideration required for purchase of the 2.857-acre fenced-in area).

Funding Source: Recording fees will be paid from the Engineering – Real Estate Division's FY09 Operating Budget GE001, ENG040700, page 119.

## ADDITIONAL INFORMATION:

On May 22, 1989, by Roll Call No. 89-2166, the City Council of the City of Des Moines received an offer from Seidenfeld Inc. for purchase of surplus City-owned property in the vicinity of E. 21<sup>st</sup> Street and Maury Street, and set a public hearing for June 5, 1989 on the proposal to enter into a real estate installment contract to sell said property to Seidenfeld Inc.

On June 5, 1989, by Roll Call No. 89-2448, following duly published notice and public hearing, the City Council approved a Purchase Agreement for a real estate installment contract between the City and Seidenfeld Inc. for purchase of approximately 9.23 acres of real property, owned by the City, located south of and adjoining 826 S.E. 21<sup>st</sup> Street. Pursuant to the original Purchase Agreement, Seidenfeld Inc. was to have paid a total consideration of \$64,000 for the 9.23 acres. The roll call approving the Purchase Agreement authorized and directed the Mayor to execute a quit claim deed conveying the entire 9.23 acres to Seidenfeld Inc., following fulfillment of the contract terms.

Shortly following approval and execution of the original Purchase Agreement, Seidenfeld Inc. fenced in a 2.857-acre tract of land within the real property under contract for use for business purposes. Thereafter, the City and Seidenfeld Inc. made an agreement to allow the City to regain control and possession of the remaining unfenced 6.373 acres of the real property under contract, for use of said remaining property for municipal purposes. It was the intent of the parties to formally amend the Purchase Agreement after a plat of survey and legal descriptions were completed to subdivide the original parcel. The plat of survey and legal descriptions have now been completed and Seidenfeld Inc. has paid \$43,542.42 in required contract payments, which fulfills the consideration required for purchase of the 2.857 acre fenced-in area.

Seidenfeld Inc. and City staff have negotiated a Settlement Agreement to resolve all conveyance and title issues surrounding the real property under contract in the original Purchase Agreement, due to the partial payment by Seidenfeld Inc. and the use of the unfenced 6.373 acres by the City throughout the duration of the contract term. Pursuant to said Settlement Agreement, Seidenfeld Inc. has executed and provided to the City a quit claim deed for the remaining 6.373 acres of real property used for municipal purposes, and the City is to execute and record a quit claim deed conveying to Seidenfeld Inc. the fenced-in 2.857 acres for which Seidenfeld Inc. has paid the required proportionate share of consideration under the Purchase Agreement. Also in accordance with the Settlement Agreement, the City is to record both quit claim deeds; upon recording, both parties shall release any claims relating to or arising out of the original Purchase Agreement.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: June 5, 1989

Roll Call Number: 89-2448

Action: Public hearing on and approval of purchase agreement and Real Estate Contract (installments) for sale and conveyance of property in the vicinity of E. 21<sup>st</sup> and Maury to Seidenfeld & Son Iron and Metal Inc.

Date: May 22, 1989

Roll Call Number: 89-2166

Action: Receive offer to purchase surplus City-owned property from Seidenfeld & Son Iron & Metal, Inc. in the vicinity of E. 21<sup>st</sup> and Maury, propose to enter into purchase agreement to sell property and set public hearing on proposal.

#### **BOARD/COMMISSION ACTION(S): NONE**

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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