



**Request for City Council Committee Action
From the City Attorney's Office**

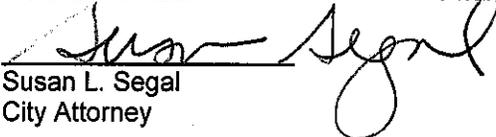
Date: April 1, 2014
To: Transportation and Public Works Committee
Referral to:

Subject: *Double Black Diamond, Inc. d/b/a Red Cow v. City of Minneapolis*
Court File No: 27-cv-13-20130 (Hennepin Cnty.)

Recommendation: That the City Council approve the settlement of this litigation and authorize the City Attorney's Office to execute any documents necessary to effectuate settlement. Settlement of this case is contingent upon modification of the Critical Parking Area ("CPA") established through Ordinance No. 2013-Or-091 to exclude the east side of the 4900 block of Drew Avenue, which is requested concurrently but through a separate Request for Council Action.

Previous Directives:

Prepared by: Andrea K. Naef Phone: 612-673-2429

Approved by: 
Susan L. Segal
City Attorney

Presenter in Committee: Susan L. Segal, City Attorney

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact: Other

Background/Supporting Information

On November 1, 2013, the City Council enacted Ordinance No. 2013-Or-091, establishing a Critical Parking Area ("CPA") on the 4900 block of Drew Avenue and the west side of the 4900 block of Chowen Avenue. The Red Cow restaurant subsequently filed a lawsuit challenging the City's establishment of the CPA. Following neighborhood meetings, the residents living in or near the CPA presented an alternative parking proposal that would alleviate some of the Red Cow's concerns by removing the east side of the 4900 block of Drew Avenue from the CPA. The Public Works department reviewed that alternative proposal, determined that it was acceptable, and is concurrently presenting a Request for Council Action modifying Ordinance No. 2013-Or-091 in accordance with the residents' alternative proposal. The Red

Cow and the City then negotiated the terms of a settlement agreement, which is contingent upon modification of the CPA as proposed by the residents. The key terms of the settlement agreement are as follows: 1) The City will modify the CPA as proposed by the residents (as requested by separate Request for Council Action); 2) The City agrees not to further modify the CPA on the 4900 blocks of Drew and Chouen for the next five years to include the east side of Drew or to include hours before 4 pm or after 10 pm; 3) After five years have passed, the City agrees not to modify the CPA to include the east side of Drew or include hours before 4 pm or after 10 pm unless 75% of the residents request the modification; 4) Nothing in this agreement limits the City's ability to disestablish the CPA, establish a new CPA, or otherwise exercise its discretion in enacting parking and traffic regulations; 5) This agreement ends after 10 years or when Luke Shimp sells or closes the Red Cow, whichever is sooner; and 6) The Red Cow will dismiss the lawsuit with prejudice. The City Attorney's Office believes that settlement of this litigation is in the best interests of the City and recommends approval of this settlement by this Committee and the City Council. The Public Works Department concurs in this request.